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ABSTRACT

Testimony is presented in these congressional hearings by the nonfederally recognized Cowlitz and Grand River Band of Ottawa American Indian tribal and administrative representatives re: legislation introduced at the request of the two Indian groups following the Secretary of the Interior's withdrawal from Congress of distribution plans prepared pursuant to the Indian Judgment Funds Use or Distribution Act (Public Law 93-134). Senate Bills S. 1334 and S. 1659 are described as limiting the payment of per capita shares to individuals who possess one-sixteenth and one-fourth degree or more Cowlitz and Grand River Band of Ottawa Indian blood, respectively. Included in these hearings are: reports by the Department of the Interior re: S. 1334 and S. 1659; testimony by a South Dakota Senator, the Chairman of the Cowlitz Tribal Council, the Vice Chairman of the Yakima tribe, the Chairman of the Grand River Band of Ottawa Descendants Committee an attorney for the Grand River Band of Ottawa Descendants Committee, a Michigan Senator, the Secretary of the Grand River Band of Ottawa Descendants Committee, the Commissioner of the Bureau of Indian Affairs, the Chairman of the Cowlitz tribe, and a tribal councilman from the Yakima tribe; letters from the Ottawa Descendants Committee to the Speaker of the House, the Commissioner of Indian Affairs to a Senator, the Cowlitz Chairman to President Ford, etc. (JC)

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ED136970

DISTRIBUTION OF FUNDS TO COWLITZ AND GRAND RIVER BAND OF OTTAWA INDIANS

HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 1334

A BILL TO PROVIDE FOR THE DISTRIBUTION OF FUNDS APPROPRIATED TO PAY JUDGMENTS IN FAVOR OF THE COWLITZ TRIBE OF INDIANS BY THE INDIAN CLAIMS COMMISSION IN DOCKET NUMBERED 218, AND FOR OTHER PURPOSES

S. 1659

A BILL TO PROVIDE FOR THE DISPOSITION OF FUNDS APPROPRIATED TO PAY A JUDGMENT IN FAVOR OF THE GRAND RIVER BAND OF OTTAWA INDIANS IN INDIAN CLAIMS COMMISSION DOCKET NUMBERED 40-K, AND FOR OTHER PURPOSES

SEPTEMBER 26, 1975

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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DISTRIBUTION OF FUNDS TO COWLITZ AND GRAND RIVER BAND OF OTTAWA INDIANS

FRIDAY, SEPTEMBER 26, 1975

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:45 a.m., in room 3110, Dirksen Office Building, Hon. James Abourezk, presiding.

Present: Senator Abourezk.

Also present: Forrest J. Gerard, professional staff member.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. The Indian Affairs Subcommittee will come to order. This is an open public hearing to receive testimony from tribal and administration representatives on S. 1334 and S. 1659 relating to the distribution of the Cowlitz and Grand River Band of Ottawa Indians.

The two proposals were introduced at the request of the two indian groups following the Secretary of the Interior's withdrawal from Congress of distribution plans prepared pursuant to Public Law 93–134, the Indian Judgment Funds Use or Distribution Act.

Since both the Cowlitz Tribe of Indians and the Grand River Band of Ottawa are nonfederally recognized tribes, the departmental plan proposed to distribute their respective judgment funds in per capita shares to the lineal descendants of the aggrieved aboriginal tribes. The tribes expressed strenuous opposition to this approach, and the pending bills were introduced to reflect their preferred method of distribution of the funds in question.

S. 1334 would limit the payment of per capita shares to individuals who possess one-sixteenth degree or more Cowlitz Indian blood; and S. 1659 would limit payment of per capita shares to individuals who possess one-fourth degree or more Grand River Band of Ottawa Indian blood. Other provisions in the Cowlitz bill would limit further the number of potential beneficiaries who might possibly have a legal claim to the award.

The purpose of this hearing, therefore, is to provide an opportunity for tribal and departmental witnesses to justify their respective positions. Following the hearing, the committee will utilize the hearing record to arrive at an informed judgment with respect to the two bills.

At this point, without objection, I shall order the two bills and departmental reports to be inserted in the record.

[The texts of S. 1334 and S. 1659 with Department reports follow:]

94TH CONGRESS
1ST SESSION

S. 1334

IN THE SENATE OF THE UNITED STATES

MARCH 26 (legislative day, MARCH 12), 1975

Mr. JACKSON (for himself and Mr. MAGNUSON) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the distribution of funds appropriated to pay judgments in favor of the Cowlitz Tribe of Indians by the Indian Claims Commission in docket numbered 218, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by the Act of July 1, 1973 (86 Stat. 99), to pay a judgment to the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218, together with the interest thereon, after payment of attorney fees and litigation expenses, and such expenses as may be necessary in effecting the provisions of this Act, shall be distributed as provided herein.

II

SEC. 2. (a) The Secretary of the Interior shall prepare a roll of all persons—

(1) who were born on or prior to and living on the date of this Act;

(2) who are lineal descendants, of one-sixteenth degree or more of Cowlitz blood, of members of the Cowlitz Tribe of Indians as it existed in 1863; and

(3) whose name or the name of a lineal ancestor appears as a Cowlitz Indian on any available census roll or other record or evidence acceptable to the Secretary.

(b) Applications for enrollment must be filed in the manner and within the time limits prescribed by the Secretary for that purpose. The determination of the Secretary regarding the utilization of available rolls or records and eligibility for enrollment of an application shall be final.

(c) No person shall be enrolled pursuant to this section as a descendant of the Cowlitz Tribe if such person has shared in or is eligible to share in a per capita distribution of a judgment against the United States recovered by any other tribe, except through inheritance, nor shall any person be so enrolled if such person is currently enrolled as a member of any other Indian tribe.

SEC. 3. The funds authorized to be distributed herein shall be distributed as follows:

(1) Ten thousand dollars shall be set aside by the Sec-

retary for the purchase of lands for the benefit of the Cowlitz Tribe of Indians;

(2) The balance shall be distributed by the Secretary per capita to those eligible for enrollment. Sums payable to adult living enrollees or adult heirs of deceased enrollees shall be paid directly to such persons. Sums payable to living enrollees who are minors or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

SEC. 4. The provisions of section 7 of the Act of October 19, 1973 (87 Stat. 466), shall apply to funds distributed pursuant to this Act.

SEC. 5. The Secretary of the Interior is authorized to promulgate rules and regulations necessary to carry out the provisions of this Act.

60-901 O - 75 - 2

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 24 1975

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 1334, a bill "To provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218 and for other purposes."

We recommend that the bill be enacted, if amended as suggested herein.

S. 1334 concerns the disposition of the judgment funds in Indian Claims Commission Docket numbered 218, the amount of which is $1,550,000. The bill would direct that funds derived from this award, after the payment of attorney fees and expenses, be paid per capita to the lineal descendants of the Cowlitz Tribe of Washington State as it existed in 1863 who: have 1/16 degree or more of Cowlitz blood; have not shared in, or are not eligible to share in, the distribution of any other Indian Claims Commission judgment; and are not members of any other Indian tribe. In addition, the bill directs that ten thousand dollars of these funds shall be set aside to purchase lands for the benefit of the Cowlitz Tribe of Indians.

On April 13, 1973, the Indian Claims Commission accepted a compromise proposal in Docket 218, and awarded the Cowlitz $1,550,000 as compensation for lands taken by the United States on March 20, 1863, without benefit of treaty or compensation. Funds to cover this award were appropriated by the Act of July 1, 1973 (87 Stat.99).

The Cowlitz Tribe of Indians is not a Federally-recognized tribe. Therefore, there is presently no Federally-recognized successor to the aboriginal entity aggrieved in 1863. There is a group which identifies itself as "The Tribe of Cowlitz Indians of the State of

Washington." This organization was recognized for the purpose of prosecuting the Cowlitz claim against the United States. It has not, however, been recognized by the Federal Government as a tribal entity.

There is a second group of Cowlitz descendants which is called the "Sovereign Cowlitz Tribe." This organization represents a small percentage of the Cowlitz descendants. It takes the position that since the Cowlitz never signed an agreement with the United States, it is still a sovereign and independent political entity and not subject to the laws or jurisdiction of the United States.

A third group derives its Cowlitz ancestry from the group of Cowlitz who moved from their aboriginal homeland to the Yakima Reservation in the early part of this century to take advantage of the better employment opportunities found there. This group represents between 55 and 60 percent of the lineal descendants of the aboriginal Cowlitz of 1863. The majority of these individuals are presently enrolled members of the Yakima tribe of the Yakima Reservation, Washington.

Pursuant to the Indian Judgment Funds Use and Distribution Act of 1973 (87 Stat. 466), a Hearing of Record was held on June 1, 1974, at Cowlitz Prairie, Washington. To insure maximum attendance at this hearing, a notice appeared in five major daily Washington newspapers early in May, 1974. These newspapers were: the Longview Daily News, the Daily Olympian, the Tacoma News Tribune, the Seattle Post Intelligencer and the Seattle Times. The subject of the hearing was a plan submitted by "The Tribe of Cowlitz Indians," for the distribution of the judgment funds. The transcript of the hearing indicates that about half of the 168 persons present favored the plan. The majority of those in favor of the plan were descendents of the Cowlitz who continued to live in the aboriginal area.

Considerable opposition to the plan was also voiced at the hearing, primarily from those Cowlitz descendants who are affiliated with the Yakima tribes. They submitted a resolution, supported by a petition with 194 signatures, which called for a straight per capita distribution. In addition, there were 116 individual letters sent to the Bureau of Indian Affairs' Acting Area Director of the Portland Area, requesting that the judgment funds be distributed on a per capita basis to all those who can prove lineal descendancy from the Cowlitz Indians of 1863.

On November 4, 1974, after an analysis of the results of this hearing, the Secretary submitted a plan for the distribution of the judgment funds to both Houses of Congress. The Secretary's plan provided for a per capita distribution of the award to the lineal descendants of the Cowlitz Tribe as it existed in 1863. The plan was subsequently withdrawn by this Department from Congressional consideration at the request of the Chairmen of both the Senate and House Committees on Interior and Insular Affairs. This was due to the controversy generated over the plan, and the short time period available to the 94th Congress in which to consider such a controversial plan before the statutory 60-day period expired.

Because the Cowlitz is an unorganized, non-recognized descendant group, there is no tribal entity through which the judgment funds can be programmed. Furthermore, most of the Cowlitz descendants are either completely separated from the tribal community or are affiliated with other tribes. Since there is no present-day tribal entity to use the funds, there is no alternative to a per capita distribution.

For these and the following reasons we recommend a number of amendments to S. 1334. These amendments reflect the Department's judgment that the plan as originally submitted to Congress is the most equitable manner of distributing these funds.

Section 2(a)(2) of S. 1334 requires a 1/16 degree of Cowlitz blood as a condition for sharing in the per capita distribution. In our judgment, this 1/16 blood quantum requirement will create a difficult and time consuming enrollment problem, which could result in litigation and appeals delaying the distribution of the funds.

The scarcity of records concerning the Cowlitz Indians will make it difficult for many applicants to prove lineal descendancy from the aboriginal group, and the additional necessity to prove a 1/16 blood quantum will unduly complicate this situation. The only official government sponsored roll that even mentions Cowlitz Indians is the "Schedule of Unenrolled Indians" compiled by Special Indian Agent Charles Roblin, dated January 1, 1919. Not only was this roll compiled over 50 years after the taking date of 1863, but it did not purport to be complete roll of the Cowlitz Indians at the time it was compiled. Further, the Cowlitz Indians were never an officially federally-recognized tribe, and they never received annuity payments nor were there any censuses of them made. Therefore, no official annuity or census rolls exist which can be used to determine descendancy, let alone blood degree.

We recommend that section 2(a)(2) of S. 1334 be deleted, and that section 2(a)(3) be renumbered accordingly.

In section 2(a)(3) of the bill, if the phrase "...acceptable to the Secretary." applies to "...available census roll or other record or evidence..." we would have no objection to the language. To the best of our knowledge, there are no official census rolls of the Cowlitz. However, there may be private, unofficial lists of persons claiming Cowlitz ancestry. Therefore, we would oppose the use of the phrase "available census roll" if interpreted that such rolls could be used even if unacceptable to the Secretary. In the latter case, we would suggest the following amendment. On page 2, lines 9 and 10, section 2(a)(3) of the bill, strike the words "...census roll or other...."

Section 2(c) of the bill provides that no person shall be eligible for enrollment as a descendant of the Cowlitz Tribe if such person "...has shared in or is eligible to share in a per capita distribution of a judgment against the United States recovered by any other tribe, except through inheritance, nor shall any person be so enrolled if such person is currently enrolled as a member of any other Indian tribe."

This all inclusive language would eliminate all Indians of Cowlitz blood from sharing in this award if they are members of another tribe, have shared in a previous award, or are eligible to share in a future distribution of an award. We estimate that the effect of this section would be to eliminate over 60 percent of the present-day Cowlitz descendants.

We believe that enactment of section 2(c) would create an inequitable situation. It is not an unusual circumstance for persons who are enrolled members of one tribe to share in a per capita distribution as descendants of a different aboriginal entity. The distribution of awards to the Kiowa, Comanche and Apache Tribes (82 Stat. 880; and 73 Stat. 598), permitted payment of per capita shares to persons who were eligible as descendants of one entity but were enrolled members of different tribes. A similar situation exists with the Mississippi Sioux and Otoe-Missouri judgment distribution, among others.

In addition, if an otherwise eligible Cowlitz descendant has participated in a previous award because of descendancy from another tribe, he did so without the knowledge that he was forfeiting the right to participate in the Cowlitz award. This situation could result in litigation challenging this requirement and, thereby, delay distribution of the award.

An equally inequitable situation could result from the language in section 2(c) barring from participation persons who may be eligible to share in future judgment award distributions. It would be impossible to determine whether a Cowlitz applicant might be eligible to share in a future distribution prior to the actuality of the development of distribution regulations and roll preparation. Even if we could determine that a Cowlitz applicant "may" be eligible for a future award to another tribe and exclude him from the Cowlitz per capita distribution, such applicant might later fail to meet the requirements imposed for participation in the distribution of that future award, or no per capita distribution might be involved in the approved use of that future award.

In line with the foregoing, we recommend deletion of section 2(c) of the bills.

Section 3(1) of S. 1334 specifies that ten thousand dollars of the judgment funds be set aside by the Secretary of the Interior for the purchase of land "...for the benefit of..." the Cowlitz Tribe of Indians. Since the Cowlitz Tribe of Indians is a descendant group that is not federally-recognized, the Secretary is foreclosed, in his role of trustee of these funds, from recommending the programming of the judgment award in this manner. If the members of the Cowlitz Tribe of Indians wish to purchase land with these funds, there exist no impediments to their donating a portion of their per capita shares, after receipt from the Secretary, for the purchase of land in fee.

Because of the considerations mentioned above, we recommend the deletion of all of section 3 of the bill, beginning on page 2, lines 23 and 24, continuing on page 3, lines 1 through 11 and the insertion in lieu thereof the following new section 3:

> "Sec. 3. That the funds authorized to be distributed herein shall be distributed by the Secretary of the Interior to those eligible for enrollment. Sums payable to adult living enrollees or adult heirs of deceased enrollees shall be paid directly to such persons. Sums payable to living enrollees who are minors or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons."

The adoption of the above recommended amendments would provide legislation for the distribution of this judgment award to all Cowlitz Indians who could prove their lineal descendancy as Cowlitz Indians to the satisfaction of the Secretary of the Interior. It would not exclude any large group of Cowlitz descendants nor would it anticipate the potential problem of Federal recognition of the Cowlitz Tribe of Indians.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

Morris Thompson

Commissioner of Indian Affairs

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C. 20510

94TH CONGRESS
1ST SESSION

S. 1659

IN THE SENATE OF THE UNITED STATES

MAY 6 (legislative day, APRIL 21), 1975

Mr. PHILIP A. HART (for himself and Mr. GRIFFIN) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40–K, together with any interest thereon, after payment of attorney fees and litigation expenses and expenses of the Grand River Band of Ottawas Descendants Committee

and such expenses as may be necessary in effecting the provisions of this Act, shall be distributed as provided herein.

SEC. 2. The Secretary of the Interior shall prepare a roll of all persons of Grand River Band of Ottawa Indian blood who meet the following requirements for eligibility: (a) they were born on or prior to and were living on the date of this Act; and (b) their name or the name of a lineal ancestor from whom they claim eligibility appears as a Grand River Ottawa on the Ottawa and Chippewa Tribe of Michigan, Durant Roll of 1908, approved by the Secretary of the Interior, February 18, 1910, or on any available census rolls or other records acceptable to the Secretary of the Interior; (c) who possess Grand River Ottawa Indian blood of the degree of one-fourth or more; and (d) are citizens of the United States: *Provided*, That no person shall be eligible to have his name placed on the roll who at the same time is an enrolled member of any tribe other than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan.

SEC. 3. Applications for enrollment must be filed with the Great Lakes Agency of the Bureau of Indian Affairs at Ashland, Wisconsin, in the manner and within the time limits prescribed for that purpose. The determination of the Secretary of the Interior regarding the eligibility of an applicant shall be final.

SEC. 4. The judgment funds shall be distributed per capita to the persons whose names appear on the roll prepared in accordance with section 2 of this Act.

SEC. 5. Sums payable to adult living enrollees or to adult heirs or legatees of deceased enrollees shall be paid directly to such persons. Sums payable to enrollees or their heirs or legatees who are less than eighteen years of age or who are under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

SEC. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act.

SEC. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 25 1975

Dear Mr. Chairman:

This responds to the request from your Committee for the views of this Department on S. 1659, a bill "To provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket No. 40-K, and for other purposes."

We recommend that the bill be enacted if amended as suggested herein.

S. 1659 concerns the disposition of judgment funds in Indian Claims Commission Docket numbered 40-K, the amount of which is $1,393,319.29. The bill would direct that funds derived from this award, after the payment of attorneys fees and expenses, be paid per capita to all persons of Grand River Band of Ottawa Indian blood who: have 1/4 degree or more of Grand River Ottawa Blood; are United States citizens; and whose name or the name of a lineal ancestor from whom they claim eligibility appears as a Grand River Ottawa on the Ottawa and Chippewa Tribe of Michigan, Roll of 1908, approved by the Secretary of the Interior, February 18, 1910, or on any available census role or other records acceptable to the Secretary. Any person enrolled as a member in any tribe other than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan shall not be eligible to share in the award, even if he meets the above criteria.

The Grand River Band of Ottawa Indians sought additional payment for 1,140,740 acres of land in southeastern Michigan that they had ceded to the United States under the Treaty of August 29, 1821. On March 27, 1968, the Indian Claims Commission entered a final award of $932,620.01 in docket No. 40-K "on behalf of and for the benefit of the Grand River Band of Ottawa Indians as it was constituted on March 25, 1822, the effective date of the Treaty of August 29, 1821." Covering funds were appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198). As of March 11, 1975, interest earned on the funds amounted to $406,692.28 increasing the total to be distributed to $1,393,319.29.

Under the Treaty of July 31, 1855, the governing bodies of the Grand River and the other bands that comprise the Ottawa and Chippewa Tribes were dissolved, and the bands and parent tribes ceased to function as organized entities. The band members, particularly those of the Grand River Band, began to scatter - primarily throughout Michigan and into other States, and Grand River Band descendants today remain widely dispersed. Although the band has been granted land at various times and for varying periods of use and occupancy in treaties, including the treaties of 1821 and 1855, the Grand River Band descendants have no reservation or other land base at the present time, nor are they formally organized.

Approximately 1,000 persons who claim Grand River Band descent formed the Northern Michigan Ottawa Association, primarily for the purpose of pressing claims against the United States on behalf of its membership. The membership of this organization includes Chippewa and Potawatomi Indians as well as Ottawas. Although the Association is not a tribal entity and is not recognized as such, its members have been active in making plans concerning the funds in docket No. 40-K through the Grand River Ottawa Descendants' Committee, formed within the Association for that purpose.

On March 18, 1972, representatives of the Bureau of Indian Affairs met with the Grand River Ottawa Descendants Committee and their attorney at Muskegon, Michigan to discuss the disposition of the award funds. The one point on which the Committee and the BIA did not reach agreement was whether eligibility to share in the judgment award should be limited to persons possessing at least one-fourth degree Grand River Band of Ottawa blood. The Descendants Committee insists on this blood quantum requirement but we can find no basis for determining blood quantum for descendants of the Grand River Band as a condition for sharing in the award.

The BIA did agree with the request of the Descendants Committee that the age of 18 years be established as the age of majority for purposes of the claims award distribution and that minors' shares be held in trust for them until the age of majority is reached.

It was also agreed that the Durant Roll of Ottawa and Chippewa Indians approved by the Secretary of the Interior on February 18, 1910, be established as a roll from which to trace lineal descendancy. This roll was prepared by BIA Special Agent H. D. Durant as a census roll of all persons and their descendants who were on a roll of the Ottawa and Chippewa Tribe of Michigan in 1870, and living on March 7, 1907. The BIA recommended that in establishing eligibility to share in the award other rolls or records acceptable to the Secretary of the Interior should also be used as the Durant Roll does not include the names of all persons of Grand River Band

descent who were living at the time of the Roll's preparation. The Committee agreed.

Pursuant to the Indian Judgment Funds Use and Distribution Act of 1974 (87 Stat. 466), a Hearing of Record was held on May 18, 1974, in Michigan, on a proposal for the use of the funds. It was attended by persons who believe they are Grand River Band descendants. The testimony was overwhelmingly in favor of restricting participation in the judgment funds to persons of not less than one-fourth degree Grand River Band of Ottawa Indian blood.

The Department of the Interior does not support this position. Our long-standing policy with respect to all descendancy situations involving judgment funds is that all descendants, regardless of their blood quantum, should be eligible to share in the award. This is our position concerning the Grand River Band of Ottawa Indians, and their eligibility to share in the judgment in docket No. 40-K.

On January 25, 1910, one month before the Secretary approved the 1908 roll, Special Agent Durant wrote the Commissioner of Indian Affairs with regard to the issue of blood quantum. In his letter he stated:

> Under my instructions from you, the degree of blood does not determine the right to enrollment [emphasis added] * * * To determine the degree of blood of members of this tribe will entail many more months of work, if, indeed, it can be accomplished at all. Certainly it cannot be done with accuracy, since there is not, to my knowledge any existing record upon which to base such determination and, if done at all, must be by oral testimony.

In compiling the roll Durant had found that many persons of little, if any, Indian blood on the 1870 roll had intermarried with the tribal members and had been enrolled by consent of the chiefs and headmen through friendship, sympathy or other influences. He reported to the Commissioner that within the same families some children of mixed blood were placed on the 1870 roll while others were not. He added that chiefs and headmen were willing to permit the enrollment on the 1908 roll of all those half-bloods and their children then living who had been enrolled in 1870, but not those half-bloods and their children who had been denied enrollment in 1870.

For the above reasons, we find no basis for establishing Grand River Band of Ottawa blood quantum as a condition for sharing in the award. All descendants should share in the judgment.

Section 1 of the bill would provide for payment of expenses of the Grand River Band of Ottawas Descendants Committee out of the award. This Committee is not recognized as a tribal entity. We cannot accept its roll as an official roll of Grand River Band of Ottawas descendants and can find no basis for compensating the Committee for its expenses or efforts in compiling a roll or for other activities with regard to eligibility to share in the claims award distribution.

Finally, under the proviso in section 2, no person would be eligible for enrollment as a descendant of the Grand River Band of Ottawa Indians if he is an enrolled member of any tribe other than Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan.

This proviso would eliminate all descendants of the Grand River Band of Ottawas from sharing in this award if they are members of another tribe. It is not an unusual circumstance for persons who are enrolled members of one tribe to share in a per capita distribution as descendants of a different aboriginal entity. The distribution of awards to the Kiowa, Comanche and Apache Tribes (82 Stat. 880; and 73 Stat. 598), permitted payment of per capita shares to persons who were eligible as descendants of one entity but were enrolled members of different tribes. A similar situation exists with the Mississippi Sioux and Otoe-Missouri judgment distribution, among others.

Based upon the above comments, we recommend the following amendments:

(1) On page 1, lines 8 and 9, we recommend the deletion of the words "and expenses of the Grand River Band of Ottawas Descendants Committee".

(2) On page 2, line 11, after the word "1910" we recommend striking the word "or" and inserting in lieu thereof "or on the payment roll derived therefrom approved May 17, 1910, or."

(3) On page 2, lines 13 and 14, we recommend the deletion of "(c) who possess Grand River Ottawa Indian blood of the degree of one-fourth or more; and (d)," and insert in lieu thereof "and (c)".

(4) On page 2, lines 15 thru 19, we suggest that the entire proviso be deleted and a period be placed after "United States".

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

Assistant Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

Senator ABOUREZK. The first witness this morning is the Commissioner of Indian Affairs, Morris Thompson. Morris, welcome back to the subcommittee.

Both Michigan Senators, Senator Hart and Senator Griffin expressed their regret they could not attend the hearing this morning, but they have expressed their intention to send down a statement of their position on this legislation. As you know, Senator Hart has been in the hospital and Senator Griffin is Minority Whip and has other duties right at this time.

[The prepared statement of Senator Philip A. Hart follows:]

STATEMENT OF THE HONORABLE PHILIP A. HART
A U.S. SENATOR FROM THE STATE OF MICHIGAN
IN SUPPORT OF S 1659, September 26, 1975
FOR THE SENATE SUBCOMMITTEE ON INDIAN
AFFAIRS OF THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS

Mr. Chairman, I appreciate that despite my inability to attend your subcommittee hearing on S. 1659, this statement will be made part of the record.

S. 1659 provides for the disposition of judgment funds awarded to the Grand River Band of Ottawa Indians in Indian Claims Commission Docket numbered 40-K. The judgment was the result of claims originally filed in 1948 for 1,140.740 acres of land in southwest Michigan which the Grand River Band of Ottawas ceded to the United States government under the Treaty of August 29, 1821. Almost identical to S.3813 which I introduced in the 92nd Congress and to S. 558 in the 93rd on behalf of the Grand River Band of Ottawas, this bill contains the distribution plan for the funds that the Indians have consistently requested. An award of $932,620.01 for the land was made on March 27, 1968, to the Grand River Band of Ottawas. Now, more than seven years later, with the original sum having grown to $1,393,319.29 with accumulated interest, the Grand River Ottawas have still not received any money. Distribution is long overdue.

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The delay in distribution stems from disagreement between the Bureau of Indian Affairs and the Grand River Band of Ottawas on acceptable criteria for entitlement to the funds. More specifically, the disagreement is over the blood degree requirement in the entitlement criteria. The Indians strongly support the one quarter degree blood limitation while the Bureau of Indian Affairs and the Department of Interior advocate distribution to all lineal descendants without regard for blood degree.

Under S. 1659, the funds would be distributed on a per capita basis to individuals born on or prior to and living on the date of the Act who possess one quarter degree or more Grand River Ottawa Indian blood and are United States citizens. The name of the individual or the name of a lineal descendant from whom he claims eligibility must be listed as a Grand River Ottawa on the Ottawa and Chippewa Tribe of Michigan portion of the Durant Roll of 1908, approved by the Secretary of the Interior February 18, 1910, or on any other available census rolls or records acceptable to the Secretary of the Interior. A person enrolled at the same time as a member of a tribe other than the Grand River Band of Ottawas or the Ottawa and Chippewa Tribe of Michigan would not be allowed to participate in the distribution under S. 1659.

The bill also provides for the reimbursement of expenses incurred by the Grand River Band of Ottawas Descendants Committee in contesting the plan for distribution submitted by the Secretary of Interior. The Committee was formed at the suggestion of the Bureau of Indian Affairs to represent members of the Grand River Band in settling the distribution controversy and is comprised of members of the various Grand River Band Ottawa communities

throughout Michigan. Certainly they should not be penalized for exercising their right to appeal in this situation.

The Grand River Band of Ottawas feel they are entitled to determine, at least to some extent, the manner in which their money will be spent. They have consistently registered their unanimous support for the plan in S. 1659 and particularly for the one quarter blood dedgree restriction. In resolutions as early as 1952, they have stated their position on the blood quantum requirement, and they continue to feel that their position is justified. Perhaps the most effective way to illustrate the importance the Grand River Band of Ottawas place on the one quarter degree blood limitation is to review briefly their efforts in the past to retain this provision.

At the time the covering funds for the judgment were appropriated in October of 1968, special legislation was required for distribution. A bill, H.R. 1100, containing a distribution plan for the Grand River Ottawas passed the House of Representatives on May 4, 1971. The Department of Interior favored the legislation, but the bill did not reflect the views of the Indians, including their desire to limit distribution to those possessing one quarter degree or more Grand River Ottawa blood. It was at this point that members of the Grand River Band contacted me. With the cooperation of the Chairman of the Interior Committee, Senator Jackson, no immediate action was taken on the bill in the Senate so that the Indians might be given an opportunity to voice their objections to H.R. 1100. A year later, on July 19, 1972, I introduced S. 3813 on behalf of the Grand River Band of Ottawas. Although substantial efforts had been made during the interim on the part of the Grand River Ottawas and representatives of the Bureau of Indian Affairs to work

out their differences, the blood degree restriction remained an issue.

On January 26, 1973, I again introduced the legislation. During that Congress, however, the enactment of the Distribution Act of October 19, 1973, (PL 93-134) changed the procedure for authorizing distribution of judgment funds. Under the new act the Secretary of Interior is to submit a "plan" to the Congress. If neither House adopts a resolution disapproving the plan within sixty days from the time it is submitted, the plan automatically becomes law. The Distribution Act also requires the Secretary, prior to the formualtion of his plan, to consult with the affected Indians and to hold a hearing of record with them in the area in which the Indians are located. This is to "insure that, within the limits of the Act, the desires of the Indian beneficiaries will be given the greatest effect". Such a hearing was held in Michigan on May 18, 1974. At this meeting, according to the Department of Interior, the testimony of the Grand River Band of Ottawas and their descendants was overwhelmingly in favor of a one quarter degree Grand River Ottawa blood provision. In the plan submitted by the Secretary of Interior to both Houses of Congress on October 30, 1974, for the disposition of the Grand River Ottawa funds, there was no blood degree requirement. Funds were to be distributed to all lineal descendants regardless of blood degree. At a meeting of those individuals believing to be of Grand River Ottawa descent in Muskegon, Michigan, on November 30, 1974, the Secretary's plan was rejected. The Descendants Committee again contacted me, and at their request I introduced S. Res. 36 on January 27, 1975, disapproving the Secretary's plan. The plan was subsequently withdrawn, and I introduced S. 1659 on May 6, 1975.

The argument of the Department of Interior and the Bureau of Indian Affairs has been that long-standing policy on descendancy situations involving judgment funds allows all descendants to share in the award regardless of blood degree. It is my understanding, however, that there have been at least three exceptions to this policy and that the policy is based on precedent with no formal binding regulation.

The Department has also argued that the base roll that would be used in determining blood degree - the Durant Roll of 1908 - is not adequate. This seems inconsistent with past policy. The Durant Roll, since its origin, has been used as a means of verifying eligibility of Grand River Ottawa Indians who were to receive Federal money and was derived from an even earlier Federal pay roll. It is this same roll that is used at the present time, I am told, along with other records, by the Northern Michigan Ottawa Association in determining eligibility of individuals to participate in Federal programs and to receive special benefits limited to individuals of one quarter degree or more Indian blood.

The Grand River Ottawas contend that the Federal government has accepted these verifications of blood quantum based on the Durant Roll in the past and find no justification in the argument by the Department of Interior and the Bureau of Indian Affairs that in the distribution of the judgment funds in Docket 40-K a one quarter degree Grand River Ottawa blood quantum could not be satisfactorily determined by the same roll.

The Grand River Ottawas further maintain that Indians should be allowed to participate in decisions directly affecting them. As non-reservation Indians, the Grand River Ottawas deserve the same degree of consideration

given reservation Indians by the Federal government in similar judgment situations.

They have argued too that if the distribution were made on a lineal descendancy basis regardless of blood degree as proposed by the Department of Interior the sum would be so small, no one would really benefit. With the distribution restricted to those possessing one quarter degree or more Grand River Ottawa blood, each of the approximately 3,000 Ottawas who would be eligible would receive roughly $300. Although there are no accurate figures, with the straight lineal distribution the payment could easily be reduced to less than $150.

It is significant to note that the Area Director of the Minneapolis Area Office of the Bureau of Indian Affairs and the Superintendent of the Great Lakes Agency of the Bureau of Indian Affairs have both consistently supported the position of the Indians favoring restriction of participation to those possessing one quarter degree Grand River Ottawa blood or more.

The argument that Indians with a higher degree of Indian blood tend to have the lowest incomes and are most in need of economic assistance might also be considered. In recognition of the greater need of these persons with a higher degree of Indian blood, Federal programs administered by the Bureau of Indian Affairs are limited to individuals with at least one fourth degree Indian blood.

S. 1659 has the support of Senator Griffin as well as myself.

For these reasons, I strongly urge that the bill be passed.

Senator ABOUREZK. Morris, if you are ready, we would like to hear your testimony. We would like to have you testify on both bills.

STATEMENT OF HON. MORRIS THOMPSON, COMMISSIONER, BUREAU OF INDIAN AFFAIRS; ACCOMPANIED BY MICHAEL SMITH AND JANET PARKS, BIA

Commissioner THOMPSON. In light of the Indian witnesses waiting their turn, I will summarize my statement and offer the full statement for insertion in the record.

I appreciate the opportunity to appear before you today to present the views of the Interior Department on S. 1334. The Department favors the enactment of this bill, if amended as suggested in the Department's report. S. 1334 provides for the disposition to the Cowlitz Indians of the judgment funds awarded by the Indian Claims Commission in Docket No. 218 in the amount of $1,550,000. Funds to cover this award were appropriated in 1973.

S. 1334 directs that $10,000 of the award shall be set aside for the purchase of land for the benefit of the Cowlitz Tribe of Indians.

S. 1334 further provides for the per capita distribution for the remainder of the award to all persons who possess one-sixteenth or more Cowlitz blood who are descendants of the Cowlitz Tribe of 1863 who have not shared or are not eligible to share in any other per capita payment and who are not members of any other tribe.

We have two major objections to the present bill. The Cowlitz Tribe of Indians is not a federally recognized tribe. Therefore, since the Cowlitz are an unorganized, nonrecognized descendant group, there is no federally recognized entity through which the Secretary of the Interior, in his role of trustee, could negotiate the land purchase, nor to whom he could transfer the title to the land.

The second problem presented by the bill is that if it is enacted in its present form, more than half of the present day descendants of the Cowlitz Tribe of 1863 will be ineligible to share in the distribution of these funds. The reasons for this result are outlined in the Department's report, and I will briefly summarize them here.

First, the scarcity of acceptable records and documentation on the Cowlitz Indians will make it difficult for many applicants to prove lineal descendancy from the aboriginal group as it existed in 1863. The additional necessity to prove a one-sixteenth blood quantum will be virtually impossible. Furthermore, this requirement will restrict eligibility beyond that required in descendancy distributions.

Second, S. 1334 would eliminate all Indians of Cowlitz blood, regardless of blood quantum, from sharing in this award if they are members of another tribe, have shared in a previous award, or are eligible to share in a future award. The effect of this provision would be to eliminate over 60 percent of the known present day Cowlitz descendants. We believe that this would create an inequitable situation. It is a long-standing policy of the Department that in all descendancy situations involving judgment funds, all descendants regardless of blood quantum or tribal enrollment are eligible to share in Indian claims award distributions.

Therefore, it is our position that S. 1334 should be amended to provide that the judgment funds be distributed per capita to all the

legitimate descendants of the aggrieved aboriginal entity, the Cowlitz Tribe of 1863.

We believe that the other provisions of the bill are consistent with previous Indian judgment legislation.

This concludes my statement on S. 1334.

Senator ABOUREZK. You may go ahead on your other bill.

Commissioner THOMPSON. S. 1659, again I think it is safe to say, Mr. Chairman, both of these bills are exceedingly complex and present to the Department, to this Committee, and to Congress a very difficult situation. They are out of the norm of normal judgment awards, and out of the norm of normal enrollment procedures. We are attempting to wrestle with very complex situations.

S. 1659 provides for the disposition of an Indian Claims Commission award in the amount of $932,620.01 granted "on behalf of and for the benefit of the Grand River Band of Ottawa Indians as it was constituted on March 25, 1822." As of this past March, interest earned on the funds appropriated to cover the award amounted to some $400,000 increasing the total to be distributed to about $1.4 million. The judgment represents additional compensation for 1,140,740 acres of land in Southwestern Michigan that were ceded by the Grand River Ottawas under the Treaty of August 29, 1821.

We recommend that S. 1659 be enacted if amended as suggested in our report on the bill.

Essentially, our suggested amendments would remove restrictions in section 2 of the bill which limit eligibility to share in the award to persons who possess Grand River Ottawa Indian blood of the degree of one-fourth or more" and disqualify anyone who "is an enrolled member of any tribe other than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan." It should be made clear that there are no such organized and recognized entities as those named in section 2.

Our suggested amendments would also remove a provision in section 1 for payment of expenses of the Grand River Band of Ottawas Descendants Committee.

The bill provides for a roll to be prepared of all persons who were born on or prior to and are living on the date of the Act, and whose name or the name of a lineal ancestor from whom they claim eligibility appears on certain early rolls named in the bill or on any available census rolls or other records acceptable to the Secretary of Interior.

The bill further provides that the judgment funds shall be distributed per capita to the persons whose names appear on the roll prepared in accordance with the Act. This is the most logical disposition which can be made of the funds because of the geographic distribution of band descendants and the fact that they have no land base and are not a formally organized political entity.

However, some 1,000 persons who claim Grand River Band descendancy are members of an organization called the Northern Michigan Ottawa Association. The membership of the organization includes Chippewa and Potawatomi Indians as well as Ottawas. Although the association is not a tribal entity, and it is not recognized as such, its members have been active in making plans concerning the funds in Docket 40–K through a committee of Grand River Band descendants formed within the association for that purpose.

The Descendants Committee has taken the position that only descendants of the Grand River Band of Ottawas possessing one-fourth degree of blood of that band should share in the claims award distribution. They have been active in compiling a roll of Grand River Band descendants based on lineal descendancy from persons named on the Grand River Band portion of the Durant Roll of Ottawa and Chippewa Indians which was approved by the Secretary of Interior on February 18, 1910.

For determining blood quantum the Descendants Committee has assumed that all of the persons named on the Grand River Band portion of the Durant Roll were fullbloods. Such an assumption we feel is erroneous. As pointed out in our report on the bill, Durant, in compiling his roll, did not consider the degree of blood. In fact he stated the degree of blood would be difficult, if not impossible, for him to determine. The same is true today, only more so.

Another problem with S. 1659 is that we have no evidence of a contractual or other legal obligation to compensate, as prepared in section 1 of the bill, the Grand River Band of Ottawas Descendants Committee for expenses it has incurred in connection with the claims in Docket No. 40–K. We have reason to believe that such expenses have been at least partially defrayed by the imposition of a fee by the Descendants Committee for handling inquiries from Indians seeking assistance in identifying themselves as Grand River Ottawa descendants. We believe it would be improper to make such compensation a legal requirement by including it as a provision in the legislation.

Lastly, as I indicated, we cannot support the proviso in section 2 of the bill that "no person shall be eligible to have his name placed on the roll who at the same time is an enrolled member of any other tribe than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribes of Michigan."

These two entities do not exist as organized and recognized tribes. All descendants of the Grand River Band of Ottawa Indians as it was constituted on March 25, 1822, the effective date of the Treaty of August 29, 1821, should be eligible to share in the award. It should be of no consequence that any of these descendants subsequently enrolled with other tribes. This position is consistent with a long-standing policy of the Department in descendancy situations involving judgment funds.

We believe that the other provisions of the bill are consistent with previous Indian judgment legislation.

This concludes my formal statement, Mr. Chairman. We and members of the staff would be pleased to respond to any questions the Committee may have.

Senator ABOUREZK. Thank you very much for both statements. Staff has some prepared questions he would like to ask.

[The prepared statements of Commissioner Thompson follow:]

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STATEMENT BY MORRIS THOMPSON, COMMISSIONER OF INDIAN AFFAIRS, ON S. 1334, A BILL "TO PROVIDE FOR THE DISPOSITION OF FUNDS TO PAY A JUDGMENT IN FAVOR OF THE COWLITZ TRIBE OF INDIANS IN INDIAN CLAIMS COMMISSION DOCKET NUMBERED 218, AND FOR OTHER PURPOSES," BEFORE THE SUBCOMMITTEE ON INDIAN AFFAIRS OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS OF THE UNITED STATES SENATE, SEPTEMBER 26, 1975.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you today to present the views of this Department on S. 1334.

The Department favors the enactment of this bill, if amended as suggested in the Department's report.

S. 1334 provides for the disposition to the Cowlitz Indians of the judgment funds awarded by the Indian Claims Commission in docket No. 218, in the amount of $1,550,000. Funds to cover this award were appropriated in 1973.

S. 1334 directs that ten thousand dollars of the award shall be set aside for the purchase of land for the benefit of the Cowlitz Tribe of Indians. S. 1334 further provides for the per capita distribution of the remainder of the award to all persons who possess 1/16 or more Cowlitz blood who are descendants of the Cowlitz Tribe of 1863; who have not shared or are not eligible to share in any other per capita payment and who are not members of any other tribe.

We have two major objections to the present bill. The Cowlitz Tribe of Indians is not a federally-recognized tribe. Therefore, since the Cowlitz are an unorganized, non-recognized descendant group, there

is no federally-recognized entity through which the Secretary of the Interior, in his role of trustee, could negotiate the land purchase, nor to whom he could transfer the title to the land.

A second problem presented by the bill is that if it is enacted in its present form, more than half of the present-day descendants of the Cowlitz Tribe of 1863 will be ineligible to share in the distribution of these funds. The reasons for this result are outlined in the Department's report, and I will briefly summarize them here.

First, the scarcity of acceptable records and documentation on the Cowlitz Indians will make it difficult for many applicants to prove lineal descendancy from the aboriginal group as it existed in 1863. The additional necessity to prove a 1/16 blood quantum will be virtually impossible. Furthermore, this requirement will restrict eligibility beyond that required in descendancy distributions.

Second, S. 1334 would eliminate all Indians of Cowlitz blood, regardless of blood quantum, from sharing in this award if they are members of another tribe, have shared in a previous award, or are eligible to share in a future award. The effect of this provision would be to eliminate over 60 percent of the known present-day Cowlitz descendants. We believe that this would create an inequitable situation. It is a long-standing policy of the Department that in all descendancy

situations involving judgment funds, all descendants regardless of blood quantum or tribal enrollment are eligible to share in Indian claims award distributions.

Therefore, it is our position that S. 1334 should be amended to provide that the judgment funds be distributed per capita to all the legitimate descendants of the aggrieved aboriginal entity, the Cowlitz Tribe of 1863.

We believe that the other provisions of the bill are consistent with previous Indian judgment legislation.

This concludes my formal statement. I shall be glad to respond to any questions that you may have.

STATEMENT OF MORRIS THOMPSON, COMMISSIONER OF INDIAN AFFAIRS, ON S. 1659, A BILL, "TO PROVIDE FOR THE DISPOSITION OF FUNDS APPROPRIATED TO PAY A JUDGMENT IN FAVOR OF THE GRAND RIVER BAND OF OTTAWA INDIANS IN INDIAN CLAIMS COMMISSION DOCKET NO. 40-K, BEFORE THE SUBCOMMITTEE ON INDIAN AFFAIRS OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, UNITED STATES SENATE, SEPTEMBER 26, 1975.

Mr. Chairman and Members of the Subcommittee:

S. 1659 provides for the disposition of an Indian Claims Commission award in the amount of $932,620.01 granted "on behalf of and for the benefit of the Grand River Band of Ottawa Indians as it was constituted on March 25, 1822." As of this past March, interest earned on the funds appropriated to cover the award amounted to $400,000 increasing the total to be distributed to about $1.4 million. The judgment represents additional compensation for 1,140,740 acres of land in Southwestern Michigan that were ceded by the Grand River Ottawas under the Treaty of August 29, 1821.

We recommend that S. 1659 be enacted if amended as suggested in our report on the bill.

Essentially, our suggested amendments would remove restrictions in section 2 of the bill which limit eligibility to share in the award to persons who "possess Grand River Ottawa Indian blood of the degree of one-fourth or more" and disqualify anyone who "is an enrolled member of any tribe other than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan." It should be made clear that there are no such organized and recognized entities as those named in section 2.

Our suggested amendments would also remove a provision in section 1 for payment of expenses of the Grand River Band of Ottawas Descendants Committee.

The bill provides for a roll to be prepared of all persons who were born on or prior to and are living on the date of the Act, and whose name or the name of a lineal ancestor from whom they claim eligibility appears on certain early rolls named in the bill or on any available census rolls or other records acceptable to the Secretary of the Interior. The bill further provides that the judgment funds shall be distributed per capita to the persons whose names appear on the roll prepared in accordance with the Act. This is the most logical disposition which can be made of the funds because of the geographic distribution of band descendants and the fact that they have no land base and are not a formally organized political entity.

However, some 1,000 persons who claim Grand River Band descendancy are members of an organization called the Northern Michigan Ottawa Association. The membership of the organization includes Chippewa and Potawatomi Indians as well as Ottawas. Although the Association is not a tribal entity and is not recognized as such, its members have been active in making plans concerning the funds in docket 40-K through a committee of Grand River Band descendants formed within the Association for that purpose.

The Descendants Committee has taken the position that only descendants of the Grand River Band of Ottawas possessing one-fourth degree of blood of that band should share in the claims award distribution. They have been active in compiling a roll of Grand River Band descendants based on lineal descendancy from persons named on the Grand River Band portion of the Durant Roll of Ottawa and Chippewa Indians which was approved by the Secretary of the Interior on February 18, 1910. For determining blood quantum, the Descendants Committee has assumed that all of the persons named on the Grand River Band portion of the Durant Roll were fullbloods. Such an assumption is erroneous. As pointed out in our report on the bill, Durant, in compiling his roll, did not consider degree of blood. In fact he stated degree of blood would be difficult, if not impossible, for him to determine. The same is true today, only more so.

We have no evidence of a contractual or other legal obligation to compensate the Grand River Band of Ottawas Descendants Committee for expenses it has incurred in connection with the claim in docket numbered 40-K. We have reason to believe that such expenses have been at least partially defrayed by the imposition of a fee by the Descendants Committee for handling inquiries from Indians seeking assistance in identifying themselves as Grand River Ottawa descendants. We believe it would be improper to make such compensation a legal requirement by including it as a provision in the legislation.

Lastly, as I indicated, we cannot support the proviso in section 2 of the bill that "no person shall be eligible to have his name placed on the roll who at the same time is an enrolled member of any tribe other than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan."

Those two entities do not exist as organized and recognized tribes. All descendants of the the Grand River Band of Ottawa Indians as it was constituted on March 25, 1822, the effective date of the Treaty of August 29, 1821, should be eligible to share in the award. It should be of no consequence that any of these descendants subsequently enrolled with other tribes. This position is consistent with a long-standing policy of the Department in descendancy situations involving judgment funds.

We believe that the other provisions of the bill are consistent with previous Indian judgment legislation.

This conlcudes my formal statement. I shall be glad to respond to any questions you might have.

Mr. GERARD. Going first to S. 1334, the Cowlitz bill, if Congress were to enact the legislation upholding the one-sixteenth blood degree criteria for enrollment, would it be possible for you or your assistants to explain to Senator Abourezk some of the complications that would follow under these circumstances?

Commissioner THOMPSON. I would be pleased to and then call on Mike Smith or Janet Parks to answer further.

One of the problems is that much time has passed since a roll was taken for this particular group. So many of them now are members of other groups that it would be fairly impossible to do an accurate roll of one-sixteenth or more. Mike or Janet may want to amplify on that.

Senator ABOUREZK. Would you use the microphone so we can hear you?

Mr. SMITH. I am Michael Smith from the Bureau of Indian Affairs.

Our records show the only official Government roll of the Cowlitz Indian was taken in 1909 by Charles Roblin, an Indian agent. This is well over 50 years ago for the tribe with which we are concerned. Even in this roll, it is our opinion, there are problems with the blood quantums listed on it. There are approximately 900 Cowlitz listed on the roll and the listed blood quantums are highly suspect, and we do not think they could be assumed to be accurate. Since that time, of course, there have been no continuous records of the Cowlitz. This is the only official roll that we have to go on and it is highly dubious.

Mr. GERARD. A second question, you indicate in your statement that the effect of the blood quantum provision would be to eliminate over 60 percent of the present day Cowlitz descendants. Would this include the group of Yakima who may claim Cowlitz descendancy?

Mr. SMITH. Most of the testimony we have from the people in our hearing of record regarding the Cowlitz plan was from the Yakima people. These are the people who have been most vocal, and to our knowledge they would represent most of the people who are Yakima descendants and have Cowlitz blood but there would be others.

Mr. GERARD. If the committee were to approve your proposed amendment and strike the blood quantum critera, can you give us an estimate of the potential beneficiaries who would share in the judgment award?

Mr. SMITH. Approximately 5,000.

Mr. GERARD. If the one-sixteenth criteria were followed?

Mr. SMITH. We cannot give an accurate estimate. The Cowlitz Tribe has a roll of approximately a little over 1,300.

Mr. GERARD. Perhaps they will amplify on that.

Mr. SMITH. We have not been able to get it.

Mr. GERARD. What about the question of land? If the provision authorizing the tribe to purchase land were maintained, would such land be taken in trust?

Mr. SMITH. We feel that the Secretary is not empowered to take the land in trust because there is no federally recognized group involved. If the bill is passed as written, it would be up to the Congress to clarify whether trust status is intended.

Mr. GERARD. Considering that this is a fairly complex legal question, and you may want to provide your response for the record, you make the point that in both cases the Cowlitz and Grand River Band and Ottawa Indians, in effect, are not federally recognized groups. I would like to have something for the record to indicate why these groups were not recognized. I don't think there is any question about their "Indianness." They can certainly point to a long cultural history, but there is nothing in the legislative report or your statement that sheds light on why the two tribes did not receive recognition along with other groups within the area.

Commissioner THOMPSON. We would be pleased to supply that for the record.

By editorial comment let me add that as to the Grand River Ottawas, the situation is even more confusing because of treatment this group received from certain Federal agencies including ours as almost equivalent to being federally recognized. This aggravates the situation even more. We would be pleased to supply that information.

Mr. GERARD. In going to the Grand River bill, I would like to pose the same general question about the problems or complications that would follow if the Congress approved the blood quantum criteria of one-fourth degree in that bill.

Ms. PARKS. As Mr. Thompson stated in his report, we have no verifiable documents on which to determine blood degree of the Grand River Ottawa people, and it would be virtually impossible at this time to verify the blood degree and it would take many months, and we would have very many appeals. It would cause an undue delay in completing an accurate roll to distribute the money if we had to impose a one-fourth blood degree requirement.

Mr. GERARD. Finally recognizing that the past Federal policy on distribution of judgment awards for nonrecognized tribes have generally followed a lineal descendancy basis, can you provide for the record instances where Congress has made exceptions to that rule over the years? If you can answer that question today, fine; if not, follow it up for the record.

Mr. SMITH. The one bill, and I am not sure I have the number, legislation which was passed in 1971 and I don't have the number but I can get it for you. Three bills were passed—the bill included three different judgment distributions: One for the Snohomish, one for the Upper Skagit, and the Sauk-Suiattles.

For the Snohomish distribution, there was a proviso which said, in effect, if you are a member of any other tribe, you would not be eligible to receive benefits from the Snohomish distribution. It should be pointed out there were two other groups included in that act to which this proviso was not applicable and the record does not indicate why it applied to only the one particular tribe.

Mr. GERARD. Did either of those acts mandate blood quantum criteria?

Mr. SMITH. Not that I know of.

Ms. PARKS. There was one in which a blood degree criteria was established for a descendancy group and that was in the Immigrant New York Fund distribution. And it involved three groups, two of which were organized tribal entities and had membership criteria which established a one-fourth blood degree requirement. It was in-

sisted the descendancy group also had to have a one-fourth blood requirement.

In order to establish this requirement, we had to go back to a very early Brotherton roll which was an 1832 allotment roll and say that all allottees on the 1832 roll were considered to be a fullblood and go from there to determine blood degree. There was no other way we could determine blood degree for these people.

Mr. GERARD. In your opinion this was definite about that assumption?

Ms. PARKS. It was the only one where we could determine the blood degree. We had no other record.

Mr. GERARD. I think given the differing opinions between the beneficiaries of these awards and the Departmental position, I am wondering if you could consider a legal question, and you may have to follow up with your counsel.

I think it is important for the Committee and the staff to hear from the Department on whether or not you think we would be establishing grounds for possible litigation if we legislated the blood degree criteria in both of these bills. In other words, if that is the way it comes down in legislation, obviously, some people are going to be excluded from sharing in the awards, and the question is, would such individuals have a claim against the U.S. Government in the future?

Commissioner THOMPSON. We would be pleased to research that. On the Cowlitz, as Mike indicated, it would be almost impossible, we feel, to determine blood quantum because of the vast amount of time that has passed since the last roll. It is the considered opinion of the Enrollments Section of our Bureau that it would be virtually impossible to try to determine blood quantum at this late date.

Mr. GERARD. I appreciate that, but the question is, would this establish grounds for a future claim against the U.S. Government by those persons excluded because of the blood quantum criteria?

Senator ABOUREZK. If you will provide us with that opinion, I think it would be very important and have a bearing on this legislation.

I want to thank you very much for your appearance today.

[Subsequent to the hearing the committee received the following:]

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

OCT 30 1975

Senator James Abourezk
Chairman, Indian Affairs Subcommittee
Dirkson Building Room 3102
Washington, D.C. 20510

Dear Senator Abourezk:

The Commissioner of Indian Affairs has referred to this office your request for an opinion on the constitutionality of blood quantum requirements such as those contained in Senate Bills 1334 and 1659. In letters to Senator Jackson dated September 24 and 25, 1975, the Department has already expressed its views on the merits of these bills, and this letter is limited to the legal question described above.

It is generally considered that Congress has plenary power over the distribution of tribal property. Further, tribal lands are communal property in which individual members have no separate interest which can pass to their descendants. Minnesota Chippewa Tribe v. United States, 315 F.2d 906 (Ct. Cl. 1963). It is also well established that how a judgment award is to be paid and precisely who can participate in the award are questions for Congressional and administrative determination. Peoria Tribe v. United States, 169 Ct. Cl. 1009 (1965); Red Lake and Pembina Bands v. Turtle Mountain Band of Chippewa Indians, 355 F.2d 936 (Ct. Cl. 1965).

Indeed, in the past, Congress has imposed blood quantum requirements on the eligibility to receive a distribution of tribal assets. See, for example, the acts providing for the distribution of the awards to the Shoshone Tribe (25 U.S.C. § 585), the Gros Ventre Tribe (25 U.S.C. § 1262) and the Emigrant New York Indians (25 U.S.C. § 1142).

Although none of these acts involves situations which are exactly like those involved in the two bills pending before you, they are sufficiently analogous to have established some precedent for a blood quantum requirement. This is particularly true of the act involving the New York Indians, which imposed a blood quantum requirement in the descendants of the Brotherton Indians.

Accordingly, it is my opinion that the imposition of blood quantum requirements in statutes distributing judgment funds is permissible so long as the particular requirement is rationally related to the circumstances of the Indian tribe or group.

Sincerely yours,

Deputy Solicitor

Senator ABOUREZK. The next panel of witnesses will be Mrs. Waunetta Dominic, chairman, and Mrs. Gladys Laws, secretary, of the Grand River Band of Ottawa Descendants Committee.

I would like to welcome both of you to the subcommittee hearings. We appreciate your coming in here to testify. If you will use the microphones and try to speak loudly, the reporter and Mr. Gerard and I will be able to hear you very well.

STATEMENT OF WAUNETTA DOMINIC, CHAIRMAN, GRAND RIVER BAND OF OTTAWA DESCENDANTS COMMITTEE

Mrs. DOMINIC. I am Mrs. Robert Dominic, a Grand River Ottawa, who has worked for the Indians and all phases of their tribal claims for 30 years.

Since 1948 we were formally organized by the U.S. Government, our agency organized our first organization.

Since that time, we have held annual council meetings to take care of all of our Indian business and had present at most of those meetings, not all but the majority of those meetings, we had representatives of the agency, and at each meeting they were given the opportunity to speak and state anything which they so desired concerning our operation of our business.

I think, first, I would like to make a statement concerning the Durant Roll business which seems to be one of the main things concerning our enrollment and one of the main things concerning our eligibility of Indians. I just listened to the statement made by a lady here—I think she is the enrollment woman—and she stated that it would be almost an impossibility to enroll people according to blood degree. I would like to make the statement now that we have done this for the Government. They have accepted our certifications and this has been done for a number of years, and it has been done through the Durant Roll.

The Durant Roll is a very complicated roll, and it takes an enormous amount of study of going through families and names and everything about that roll before you can thoroughly understand what is the Durant Roll.

We have also incorporated in our files letters to and from Mr. Horace B. Durant and Valentine and different Government officials concerning the making of that roll and how it was made.

No. 1, which I think is something which no one can refute, is the fact that on the Durant Roll in the beginning of the page it states that the children of halfbreeds are hereby removed.

Now, you start there and you stop and think, now, children of halfbreeds. Who are these children? Would they be a child of a white mother and maybe an Indian father which would constitute a halfbreed child, or would it be a child who has a father who is a halfbreed and a mother who is a halfbreed? There could be various things that you would reason at first if you did not know the Durant Roll and had not studied it.

You take that statement exactly as it is stated—children of halfbreeds are hereby removed—that is exactly what they meant. You can take a mother who is a halfbreed and a father who is a halfbreed and the child would end up being a halfbreed, yet that child would be removed.

Senator ABOUREZK. If I may interrupt a moment, what year was that roll made when children of halfbreeds were removed?

Mrs. DOMINIC. They started to make it in 1908 and they finished it in 1910.

Senator ABOUREZK. Was that considered an accurate roll?

Mrs. DOMINIC. It must have been because it was used to make payment to the Indians. If it was not, I imagine the Government would have changed it as not accurate enough to pay money through.

Senator ABOUREZK. You can trace everybody from there on down from that roll; is that correct?

Mrs. DOMINIC. Yes, persons whom we would consider eligible. There may be an exception or two like there is anything you do. I have talked to several organizations and asked them about their memberships and I asked if they had everybody. They said if we can make everything perfect that would really be something, but I would say the Durant Roll is as perfect as could be. I am not saying it is absolutely perfect because I don't think anybody can come up with an absolutely perfect roll. Even Horace B. Durant did the best he could, but I imagine he came up with a few things that were not quite right, but there are so few today we could very easily correct that.

Getting back to the statement that it would be an impossibility to make a descendancy. If you had no accurate roll on which to base your opinions, then what would you base them on—hearsay? You would have to take the word of someone. In fact, my whole life is working with enrollments, family trees, and histories. When you get to one sixty-fourth or one thirty-second Indian, you are almost going to have to say that is right if you say so. There will hardly be anything you can base it on.

When we get down to one-fourth, when you do it accurately, we spend hours sometimes tracing that guy to one-fourth and make sure he is one-fourth because it will take perhaps a series of calls, it will take delving into records, bringing them back and tracing them back with whatever Government official records we have and then coming up with an interview of the relatives and whatnot and then perhaps we will get the one-fourth line.

We have done this for the Ashland office and the Minneapolis Police Office for years for all certifications of Indian children who want scholarships to go to college. We have also done this for employment of Indians as minorities in various factories and companies. We have also done this for hospitals, Government hospitals that have requested that certification of an Indian be made so that they can supply services to those Indians.

If this were not right and could not be done as has been stated by some people here this morning, then certainly your U.S. Government area offices and regional offices and whatnot would have an awful lot of money to pay back because what they would have done would have been illegal. They would have accepted certifications on people for employment, education and welfare-type programs that were wrong, and I don't believe that is true. I think that they recognize the fact, and I also know that they did write a letter stating that they do recognize our one-fourth line. They are pulling for us in this claim to leave it at a quarter line.

Now, you take, for instance, one child. Sometimes we can do this immediately because we have maybe good histories on the child and it can be done in a matter of a very short time. Other times it will take us a few hours to do the same thing. However, our records are sufficient to pretty well take care of all of our nonreservation Ottawas and Chippewas of Michigan.

We have in our possession not only a form which is filled out by the person, but we have files that can be used for cross-examination of various families that are related to the individual. We not only have that but we have statements and affidavits that were taken, I would say, maybe 25 years ago from the elder Indians in which they stated that certain things were true and certain people were related to them, and so on and so forth.

Now, you take a white enrollment officer. I would say it would be very difficult for that person to start from scratch and come up with a roll for the simple fact, number one, they can't talk Indian. Much of our information that we have gathered has been from our elder Indians and it has been done through the Indian language. We have been given papers by some of these older people because they trust us as Indians, and they would not give these papers out to any white person. That I know personally.

We have very good relationships with the Indian people because they tend to trust other Indians more than what they would if a white person came to inquire of them various things about their history and so forth.

Another thing, if during all of these years, during the time that we have made this enrollment and gathered information, if at any time during that time an Indian objected or said, hey, I was not included, over the last 30 years, we would have heard about it.

I can almost say we have collected an almost 100 percent enrollment of our Ottawas and Chippewas, and seeing it is concerned with the Grand River Indian rate now, I would like to know where the Grand River Indians are that we have not had contact with.

Another thing, it really irks me when you say we are getting payment for Indian land being paid to the Indian. Who is an Indian? An Indian to me is a person who is, when you get right down to bear facts, I would say one who is one-half or more, but that Indian also has the right to say, "OK, I am an Indian but I would like to help my halfbreed relatives maybe down to one-fourth or whatever is required." That would be the right of an Indian.

If you were one thirty-second Polish and say thirty-one thirty-second Irish, certainly when somebody asked you what you were, you would probably say I was an Irishman. But yet in the case of the Indian, they take them down to no blood degree. That is being imposed and pushed on the Indian because if you dealt with Indians and you had made surveys among them, you would find the Indian is very, very conscious of blood degree, to the point that he even hates to have a person who is less than one-fourth even take part in a lot of his programs.

Now, not only is he conscious of blood degree but your U.S. Government is conscious of blood degree. They will not deal with a person who is one-eighth blood degree on any scholarships or benefits which the Government says goes to an Indian.

A question was asked here a moment ago: would we have a lawsuit pressed against us? If that were true, I imagine you could have the one-fourth line on your scholarships.

Now, have you been handed out a lawsuit on your scholarships that you give out to Indians? On your helping an Indian who is one-fourth in a hospital and receives hospitalization, do you have a lawsuit against him? I would say no. Why? Because the majority of people who get down that far realize they have nothing.

Take inheritance and a father dies and a mother dies. They come down to the children then. Do they go clear on down to the great, great, great, great grandchildren from way back and say you have an equal share with that son or daughter? No, they don't. They take it down to a certain degree because that is feasible and the best way to do it. You would have so many complications if you had to take it down to the great, great grandmother and aunts and uncles and nephews.

If you took all that stuff down when somebody died and left an inheritance, you would have such a mix up that it would not be feasible to do that. Yet, the U.S. Government today insists that is exactly what the Indian has to do. Why the Indian? The Indian is just the same and should receive the same consideration as any white person or a person of another race.

I know definitely years ago because I have studied this and gone into histories, and, say, for instance when Horace B. Durant was out making an enrollment, the Commissioner at that time says do what the Indian wants. That is in those letters. When Horace B. Durant said they don't want a certain segment put on these rolls, he said check those in green or blue pencil, so they checked the persons the Indians did not want on their rolls. I am talking now about the Durant rolls. Also they made the statement that persons who were enrolled with other tribes and had received payment under other tribes should not share in their claim. That was in the Durant Roll, the 1836 which also included the Grand River Indian.

At the time papers were turned into Mr. Valentine, they made the statement take off from the roll those persons who were checked in red and in green pencil.

Now, definitely, anybody could certainly see that that was a blood degree type enrollment because persons who were of mixed blood and who were children of halfbreeds were removed not by us but by the Government itself. The President in 1836 declared that persons of less than half blood degree were not eligible for personal allotments. However, the Indians pleaded in, I think, maybe the Sixth Article of the Treaty of 1836, they stated, "We, being desirous of helping our halfbreed relatives and friends, would like to have $150,000 set aside for their benefits." It is not exactly in those words but it is somewhere in the treaty.

Now, whom did they mean when they said we being desirous of helping all our relatives and friends? When they stated that they could not have been halfbreeds or mixed lower than a halfbreed, because if they were, then they would have stated it like there, "We being desirous of helping ourselves a little bit more would like to have another $150,000 set aside."

But they did not say that. They said they want to help their friends and relatives. Just in that statement alone you can certainly see that the persons whom the Government was dealing with at that time were persons of over half Indian blood. They were the ones who made the treaty. They were the ones doing the dealings with the Government, so therefore because of that, Mr. Durant did ask when he made the 1910 Durant Roll, "Well, how about these people?" And the Government as much as replied, "We will do as the Indians desire." The chiefs even were given the right to take off some of those whom they felt were undesirables.

What I am trying to get across is the Indian's opinion in dealing with the Government was certainly taken to heart years ago in your treaties and so on.

Today they say, "You are unorganized, unrecognized." I can't see where that was stated back there. They took the opinion of those persons who were Indian, and which knowing that they were halfbreed or more—you take your treaties and read them. I can't find anything where the Government especially—and I am talking about Michigan treaties—where the Government dealt with persons less than half.

I have done an awful lot of history and research, and I have done a lot of talking with people throughout Michigan. That is one thing I wish the committee or the people who are trying to decide these cases today would take into consideration—what does the Indian himself think? That should be the important thing, self-determination. That is self-determination. You say you will leave out all those people. The Government leaves out all those people when it issues a scholarship. It leaves out the one thirty-fourth or one thirty-second Indian because he feels they are not an Indian according to his law.

Now, why can't the Indian have the same right? The Indian has always been able—take your Eagles, Elks and other organizations—they determine who their membership is, but when it comes to the Indian to determine his membership in his own tribe, that is a different thing.

Senator ABOUREZK. If I may interrupt, do you think it might be unfair on the part of the Government to cut off people of less than one-fourth or one-sixteenth blood for scholarships?

Mrs. DOMINIC. I do not think it is unfair. I think it is being done, correct, although it should really be half, I imagine. We have no objections to one-fourth. What I am trying to bring out is the fact that if you were going to give out scholarships to persons who were less than one-fourth, then I would say give them to everybody and don't call your scholarship Indian. Call it just a scholarship for people, because we as Indians do not consider them Indians. I am talking about our Michigan Ottawa and Chippewa.

You can check with the Indians in Michigan, and you will find that they agree with us on these things. We have held meetings for 30 years or so and we have asked them what do you want? In every case they come up and say, well, for goodness sake make them limit it to one-fourth because we don't want this.

I think I have dwelled enough on that part.

There is another thing which really got me and that was a letter which was written to Speaker Albert by Secretary Morton. This was a letter to a subcommittee of the representatives but it has an awful

lot of information which is wrong. For one thing, I think it was your Mr. Thompson who stated something about a thousand Indians. Where does he get those figures?

That is what I would like to know, when the Government themselves have to come to us for figures because they have no rolls, they have no records of the Ottawas and Chippewas. We do. How can they come along with statements like that? How can they say our organization has Potawatomi membership when we have no Potawatomis in our roll? Our Ottawa and Chippewa organization is just that, Ottawa and Chippewa.

There are statements like that that are made. I would like to know where they get these things.

I would like to read a little thing I came across here. I should have had the whole thing complete. If you give me 2 weeks, I may be able to do this better.

To give you a little idea, in this letter which is 8 of 10 pages long, I find statements that are wrong and not right in here. I started to correct it and I came up with 2 pages so far which I have typed, and I have just other notations on the rest of the pages that are wrong. I would perhaps like to present that later if given time.

Senator ABOUREZK. Would you like to submit that letter for the record?

Mrs. DOMINIC. Yes, I would. Maybe I would not have to do it here.

I would like to submit a correction on Carl Albert's letter which was dated October 30, 1974. I will submit that.

[Material referred to appears on p. 60.]

Mrs. DOMINIC. Getting back to our position, it seems to me the important thing that we are discussing today is the blood degree. I think most of the other things are not of too much importance. We have come to an agreement.

The one thing which I would like to emphasize more than anything else is the fact that we can come up with a one-fourth line blood degree enrollment because we already have come up with that. It is to the satisfaction of the U.S. Government because they have used it and they are using it today. It would be very difficult to come up with a lineal descendancy record roll because you have to have something on which to base it.

Senator ABOUREZK. The quarter blood roll you are talking about is now being used by the Government?

Mrs. DOMINIC. That is correct.

Senator ABOUREZK. Is that your understanding as well?

Ms. PARKS. The area offices and the agencies have used it.

Senator ABOUREZK. They have not disputed or tried to dispute it at all; is that correct?

Ms. PARKS. No, they have not at the area and at the agency level.

Senator ABOUREZK. They have not tried to dispute it.

Ms. PARKS. The central office does not recognize it.

Senator ABOUREZK. I would like to speak to the BIA representative.

Would you also submit for this hearing record other instances where the roll which is referred to by our witness here has been used

or accepted by the Bureau of Indian Affairs aside from the scholarship grants? Would you be able to supply that for the record.

Ms. PARKS. Yes; I can supply that.

[The information requested follows.]

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C. 20245

IN REPLY REFER TO:

29 OCT 1975

Honorable James Abourezk
United States Senate
Washington, D.C. 20510

Dear Senator Abourezk:

This letter responds to your request for information concerning Senate Bills S.1334 and S.1659, Distribution of Funds to Cowlitz and Grand River Band of Ottawa Indians. The following information will supplement the record of the hearing on these bills held on September 26, 1975.

1. Why are neither the Cowlitz tribe nor the Grand River Band of Ottawa Indians "federally recognized" tribes?

a. Cowlitz - Throughout the 1850's and 60's the United States made a concerted effort to conclude a treaty with the Cowlitz Indians. Despite these efforts, no treaty was ever executed between the United States government and the Cowlitz Indians. From that time to the present, there has been no continous official contact between the Federal Government and any tribal entity which it recognizes as the Cowlitz Tribe of Indians. The original petition before the Indian Claims Commission was not filed by a tribal entity, but by an individual, Simon Palmondom "on relation of the Cowlitz Tribe of Indians."

b. Grand River - Under the Treaty of July 31, 1855, the governing bodies of the Grand River and the other bands that comprise the Ottawa and Chippewa Tribes were dissolved, and the band and parent tribes ceased to function as organized entities. The band members, particularly those of the Grand River Band, began to scatter - primarily throughout Michigan and into other States, and Grand River Band descendants today remain widely dispersed.

Although the band has been granted land at various times and for varying periods of use and occupancy in treaties, including the treaties of 1821 and 1855, the Grand River Band descendants have no reservation or other land base at the present time, nor are they formally organized.

2. Would legislating the degree of Cowlitz or Grand River Ottawa blood of descendants of those groups eligible to share in these claims awards constitute a basis for lawsuits against the United States by descendants excluded from sharing in the awards because of the blood quantum criteria?

A. This question was submitted to the Solicitor, Department of the Interior by memorandum dated September 30, 1975. We are advised by the Office of the Solicitor that the opinion is imminent and will be forwarded directly to the Indian Affairs Subcommittee under separate cover.

3. Are there instances where the roll compiled by the Grand River Band of Ottawa Descendants Committee has been used as a criterion of eligibility by the Bureau of Indian Affairs for receiving benefits other than scholarship grants?

A. In response to an inquiry from this office, the Great Lakes Agency provided the following information: In fiscal years 1974, 1975, and 1976, the Great Lakes Agency has assisted 37 people in vocational training using the Descendants Committee roll. The total cost to the Government of this assistance has been $73,462.78.

4. Will the Bureau of Indian Affairs make a copy of the Durant Roll available for the hearing record?

A. The Durant Roll is in the National Archives and is available for public scrutiny. The Durant Roll is a voluminous document (about two inches thick) and would make the hearing transcript too bulky for practical use.

5. The Grand River Band of Ottawa Descendants Committee has previously submitted position papers and other materials to the Bureau of Indian Affairs; can the Bureau of Indian Affairs make these available to the Subcommittee?

A. Every document or submission from the Grand River Ottawa Descendants Committee which has been in writing and given to the Bureau of Indian Affairs has been previously submitted to the Subcomittee. This material was all furnished to the Subcomittee as an appendix to our transmittal letter dated

October 30, 1974 to the full Committee for the plan for the proposed distribution of funds in Indian Claims Commission Docket numbered 40-K in favor of the Grand River Band.

6. Provide instances where the Cowlitz roll has been used by the Bureau of Indian Affairs for official purposes.

A. In response to an inquiry from this office, the Western Washington Agency stated that it has never seen a copy of the Cowlitz membership roll. They further stated that "Individual education employment assistance had been extended to individual Cowlitz Indians based on a blood degree determination made from agency records, basically the Charles Roblin Report of Unenrolled Cowlitz Indians." (emphasis mine)

The Roblin Roll is an enumeration of unenrolled Indians. Any Cowlitz who were enrolled with any recognized tribe, i.e. Yakima etc., were not included in this census. So the Roblin Roll in not even a complete listing of the known Cowlitz Indians who were alive in 1919.

We hope these are sufficient responses to questions asked at the hearings on S.1659 and S.1334, September 26, 1975. We will attempt to answer any further questions from the Subcommittee.

Sincerely yours,

Morris Thompson
Commissioner of Indian Affairs

Mrs. DOMINIC. The one thing which I would like to further emphasize again is the fact that the Durant Roll is the last official Government roll of the Ottawas and Chippewas which also includes your Grand River Indians. The Durant Roll was accepted and was used to make payments to the Ottawas and Chippewas in Michigan. If you did not have a base roll, that is what we consider our base roll. If we did not have a base roll to be used, then you would have nothing. You would have to accept a hearsay of any person who says, "Hey, I am an Indian."

There is no such thing as not having a base roll. You would have to come up with something. Durant did come up with a roll which I will not say is absolutely perfect because I would like to see the person come up with something which is absolutely perfect, but it is as perfect as can be done, I would say, at that time. And our Indian people of Michigan, our Ottawas and Chippewas, nonreservation, have accepted his work as being correct as could be.

In fact, I would say we have no objection when I go to make out papers and help a person trace their ancestry, I get out the Durant papers and the Durant Roll says your mother was not enough of an Indian and they are crossed off the rolls. They have no objection.

The Ottawas and Chippewas of Michigan would like to go along with that.

Senator ABOUREZK. Would you hand to the reporter whatever it is that you want to put in the record? That would be Carl Albert's letter.

I would also like the BIA at this point of the Durant Roll to be submitted for the record.

[Due to the voluminous nature of the material it was not reproduced in the hearing record.]

Mrs. DOMINIC. I have just a little statement here that we have written concerning the halfbreed roll. Under the halfbreed roll of 1836 those who are less than one-fourth Ottawa and Chippewa Indian blood were not paid. This is plainly shown on your halfbreed roll, exhibited in the National Archives, Washington, D.C.

The authority for this roll appears to be the Sixth Article, P-4512, Kapler, Treaty of March 28, 1836, 491, whereby it states, "The said Indians being desirous of making provision for the halfbreed relatives and the President having determined that individual reservations shall not be granted, it is agreed that in lieu thereof, the sum of $150,000 shall be set aside as a fund for said halfbreeds."

This Article further states that a census roll shall be made and that the Council of Chiefs shall designate three classes of claimants. In that 1870 Chippewa roll, the Chippewa and Ottawa Indians appear to be those of high blood degree. In the last roll of Ottawa and Chippewa Indians approved on February 18, 1910, by the Secretary of Interior, as required by Congress, descendants of halfbreeds were eliminated from a payroll which followed.

In the last roll of 1910, authority of chiefs is cited and respected as shown from the records found in the National Archives. To create a new roll now without blood degree based on lineal descendancy would create a new condition contrary to past settlements and contrary to the overwhelming requests of the Ottawas and Chippewas of Michigan. In view of the past procedures, these Indians want a new

quantum roll based on one-fourth or more Ottawa and Chippewa Indian blood. The Bureau of Indian Affairs needs a new roll with blood degree.

There is more but I won't go into that. I just wanted to get that into the record, and the fact that the Indian's opinion should be definitely considered, and if it was necessary and you had to go into the State of Michigan to get the opinion, maybe a field research, I wish that would be done. We have already done it so we pretty well know what their opinion is.

Senator ABOUREZK. Thank you very much.

STATEMENT OF GLADYS M. LAWS, SECRETARY, GRAND RIVER BAND OF OTTAWA DESCENDANTS COMMITTEE

Mrs. LAWS. I am Gladys Laws, Grand River Ottawa. I am the daughter of Anthony Chidanuscum of the Durant Roll of 1910. He is the son of George Chidanuscum whose Indian name goes back to the single name of Chidanuscum. Can any of the white people here who are going to make out these rolls pronounce Chidanuscum or Mackatabanesse? These are the singles names you get.

Senator ABOUREZK. I don't know if they can but I can't.

Mrs. LAWS. You are telling us we Grand River Ottawas, that we must take their policy which is clearly outdated. This is 1975. How long the Bureau of Indian Affairs has been in existence, I am not sure, but I am sure their policies are old, probably based on lazy people who did not want to go out and do their job properly because people in Government tend to be lazy. It is a soft, plush job. I worked for the Government myself. I worked for the State of Michigan. I see lazy people in the Government. I see people who would rather take the easy way out than to go out and do something right. It is always easy to say, "Well, this is my policy."

What do they base their policy on? Do they base it on the will of the people? We are Grand River Ottawa people. Our Constitution says "of the people and by the people." We are the people. We are a small group of people.

In 1836, the Grand Rivers numbered 1,453 Indians. These Indians were not less than one-fourth. They were over one-half. They were over one-half Indians which was 25.7 percent of the Ottawa Indians in Michigan.

In the 1870 roll, there was 1,326 Grand River Indians.

Your enrollment officers went out and I am sure they had to get the assistance of these Indian groups, the head men, the tribal chiefs to enroll their people. They did not do it by themselves with those single names and say I think that guy must be a Grand River Indian because his name is Chidanuscum. He went to the tribe and asked for assistance and he went to the various homes to identify these people as Indians.

Now, our organization has been doing this. We have done it because we want to keep track of our people because somewhere we learned there were no Ottawa Indians in Michigan. The Federal Government did not recognize us. We were absorbed into the white community. We were no longer Indians, so they told us, so we tracked down our own people just as they did in the Bible days. In the House of David he tracked the people down. We tracked our people down

and we are keeping track of them because they are what we have of our heritage in this country.

The Grand River Band of Ottawas is a distinct band. We might be small and we might have lost our land through treaties, and we might have done a lot of things, but we still exist, and we are there and we do not consider anybody less than one-fourth Grand River Ottawa to be Grand River Indian.

I have worked for 30 years with the Indians. I have gone door to door in Indian communities asking, "Are you an Indian?". If they have blonde hair and blue eyes I asked them if he had any Indian blood in them. I had a dual reason for doing this. Years ago I worked for the census so I had the unique opportunity to ask people if they even faintly looked Indian do you have Indian blood in them. Then I would write down their name and come back later and ask them if they could give me their father and grandfather's name because we were tracing our people within Michigan. We have come out with an estimated census of 3,000 Grand River Ottawa Indians.

Senator ABOUREZK. Mrs. Laws, there is a vote over on the Senate floor and I have to go over and vote. If you want, I can ask the staff counsel to continue to take this testimony, or if you want to wait until I can get back, you can do that, but I would recommend we continue the hearings because the testimony will be in the record.

Do you have any other testimony?

Mrs. LAWS. Other than I wanted to read these portions out of the letters to the Secretary of the Interior and the Commissioner.

Senator ABOUREZK. Letters written by you?

Mrs. LAWS. I have some minutes here and I would like to read portions of the minutes in which the Bureau of Indian Affairs and their delegation met with us, the Grand River Ottawa Descendants Committee by their request on March 18, 1972. We went to this in Muskegon, Michigan.

Senator ABOUREZK. Go ahead. I will excuse myself and I will come back as soon as I can. There is a vote on the Oil Price Extension Act. It is a very important bill to vote on and as soon as you are finished, then I will ask the next set of witnesses, Joseph E. Cloquet and Roy Wilson, to testify even though I might not be back. I will just excuse myself for a few minutes. Please continue.

Mrs. LAWS. I want to bring out a portion of the minutes that were taken at that meeting in which we had Ed Plenadine, Reginald Miller, Mr. Mitchie, the attorney for BIA, Willard Laboe, Bob Bruce, Ruth A. Rutledge and we hassled for 4 hours on this blood quantum. They explained the Durant Roll to us. They investigated the Durant Roll and they looked over the 1855 roll.

After a lengthy discussion, Mr. Bruce said the Bureau would not oppose and remained silent on that point, and this is concerning the blood quantum. Mr. Bruce said, "When the bill was referred to their committee for advice"—those words were given to us at that meeting—"All issues were agreed upon except the trusted funds." With so small a claim Mr. Bruce said, "They would pay the claims to parents of minor children and guardians." They said all family trees would be done on their forms even though we had them. He did mention that he would have people from the Great Lakes Agency and hire local personnel to assist in the preparation of the roll, which

means we asked for dual preparation of the roll so we would be sure that we could identify our Grand River Indians.

My father who is Anthony Chidanuscum has been the interpreter since the 1821 claim was processed. There were many Indians who could not understand the 24-letter words that the attorneys presented to us. Many Indians did not have that education to understand exactly the legal terminology so my father interpreted in Indian to them so they could understand exactly what happened. This happened at our local meetings in the Grand River area because we often held meetings for the Grand River Indians only and we designated Grand River Ottawa Indians only. Many of them were old people, old people who did not understand English. He interpreted in Indian to these people what this was all about.

These older Indians held on that they wanted a one-half degree Indian, but they would concede one-fourth degree Indian. They would go down to one-fourth degree Indian, but they wanted to remain at one-half. You are lucky if you find 10 of them alive today. This was 25 or 30 years ago. Most of the Indians who participated in the initial part of this claim are dead and gone. What you have now are the children of those people and I am one of those children who is continuing this.

To me, to go less than one-fourth Indian, you are getting into our inheritance, and we don't want that taken away from us, the fact that we are Grand River Ottawas. We don't want that taken away from us because we have had everything else taken away. To take it down to any degree less than one-fourth, you are taking in white people and that is the "if." I know a person who is less than one-fourth degree Grand River who said, "if I have a nosebleed, my Indian blood is gone." They said, "I don't want that money. That belongs to the Indians who need it and deserve it, who are more Indian, who have been discriminated against because of their Indianness."

You see, I am white but I have a little Indian in me. I am not discriminated against like the true Indian is. That might also bring out a fact here on this blood quantum. I have been called by various state agencies. You know we have an Affirmative Action Plan in Michigan for minorities. We have people who have been white, and I worked with some of them coming out of the woodwork. They are minorities now. They were not minorities before the Affirmative Action Plan. They were white, but now that they find there is a chance to be promoted because they are minorities, they are busy, asking me to help trace their ancestry.

"My grandmother was an Indian who weaved baskets. I know she weaved baskets." I ask what tribe and they say, "I don't know, but I know I have some Indian blood in me." That is what we are faced with. They want that little bit of money that should come directly to the fullblood Indians. If we take these people into consideration—remember we are talking about $932,600 something. That is a small amount divided among our estimated 3,000 Indians.

Now, if you take in your lineal descendancy, we might as well give that money right back. It is not doing us any good. I am not fighting for the money because I have put 30 years of my time in this. Do you know what I get back monetarily? It will not cover

a trip for me to come to Washington. It won't even buy me a nice diamond ring moneywise. We want to be recognized one-fourth. I am fighting for our heritage, not for the money.

If you have under one-fourth, you are assimilated into the population of a state or country wherever you are, and we do not want that to happen so we want to remain this way. I am speaking on behalf of the Grand River Ottawas of Michigan. I have been spoken to by many, many of the people who said, "You go up there and you fight for us. Don't let them do that to us." Our Indians are poor Indians. They can't come up here and fight for themselves. They have to have representatives do it for them and that is what we are here for, to fight for our people so that their desire will be known and be adhered to.

Also, they made a commentary here about paying the Ottawa Descendants Committee their expenses. Well, I am on that committee. I have incurred many expenses. I recorded some of them but I never expected to see the money—I know the government. They don't want to give you one penny if they can help it, but they like taking it, though.

The point is this: They said we have received money through the years to support this claim. Somewhere in here they say we had been receiving payments for checking these descendancies that went into helping us with our expenses. That is not true. That went in to incur the cost of paper, typing, and that went in to cover the cost of mailing. Now, what does it cost you to copy a document, mail it, research it? That is what it went into.

At our many meetings, any money derived, we [illegible] a motion any money received for tracing an ancestry would be turned over to the person who did that tracing, so the committee did not receive one penny of it.

Mr. GERARD [presiding]. For the benefit of the committee, may I pose this question? Does the Descendancy Committee have an estimate of how much they should be reimbursed for their work on the claim and the many hours they have put in on the roll?

Mrs. DOMINIC. I am the chairman and I would like to answer that. I am the chairman of the committee and all they are asking is the actual expense that is incurred when they perhaps meet. Maybe they have to go to Detroit or meet in Muskegon, wherever they meet, their mileage and expenses if they have to stay overnight in that specific instance of committee expense. I think it is only right that they do that.

You take today. Our people probably say, yes, they got some money for that. I personally went out and solicited for the money to cover my secretary and me to come to Washington. I solicited from private parties, church groups and whatnot, and I finally got enough together so that we could come here and present our side.

Otherwise, we would not have been able to come and present our side. If I had not gone out myself and solicited for expense, and I think that is really unfair when you think of all the money that is available for your government to go out and do whatever they need on research and to present a case against us, their expenses are paid; for us to present our side, we have no funds to do that.

Mr. GERARD. Can you at a later date, hopefully in the next couple of weeks, provide for the committee what you consider to be a fair reimbursement for past work performed by the Descendants Committee?

Mrs. DOMINIC. You want that presented——

Mr. GERARD. To the committee, to Senator Hart's office. We will give you the mailing instruction.

Mrs. DOMINIC. Yes, we can do that.

[Subsequent to the hearing Mrs. Dominic supplied the following:]

MILEAGE AND PER DIEM FOR GRAND RIVER BAND OF OTTAWAS DESCENDANTS COMMITTEE

	Mileage	*Per Diem*
Nicholas Bailey	906	$100.
June Gardner	886	75.
Anthony Chingman	902	75.
Waunetta Dominic	1,248	115.
Rose Shalifoe	836	100.
Albert Micko	832	75.
Gladys Laws	1,404	150.
Paul Johnson	1,404	150.
John Cantu	796	80.
Carol Bennet	1,204	150.
Total	10,418	1,070.
10,418 miles at 12 cents per mile		1,250.16
Total		2,320.16

Legal fees not to exceed $7,500.

Mrs. LAWS. That was one issue and the other issue involves the letters from Valentine.

On May 16, 1910 and June 25, 1910, letters from Valentine to the Secretary of Interior stated and recommended that mixed bloods and halfbreeds shall not be paid. In referring to other tribes, "There are many persons whose names I have enrolled as members of this tribe who are found to be enrolled with another tribe, and who have participated in per capita payments to other tribes. Such persons have been noted so that their names may be omitted from the final roll if the Department so directs. They include those who have drawn moneys with the Potawatomis of Michigan, Alliance of Michigan and the Point Grade B, and Indians under the Canadian Government."

Here is the consideration of determination: "one-half."

That was July 13, 1909, written to the Commissioner of Indian Affairs by Horace B. Durant. The one I was citing was written to Vincent and was so done by those red and blue check marks. The red checks were the halfbreeds and mixed bloods that were taken off, and the blue checks were those enrolled with Ottawa Tribes and were taken off the rolls. If you check your payment, you will find those payments are not on the final payment of the 1836 Treaty. They were not on the final payment of 1910. We want to stick by this. That was the other one that I had that would refute the Secretary of Interior.

Mr. GERAPD. I would like to suggest to the two witnesses, if you have pertinent letters or documents that you feel support your arguments, these should be provided for the official hearing record, either now or they can be mailed later.

Second, your attorney, Mr. Edwards, talked to the committee staff the other day and informed us that he would be sending in at a later date a very comprehensive brief supporting the position of the tribe.

Mrs. LAWS. We have the support of the Michigan Bureau of Indian Affairs on this quarter blood quantum.

Mr. GERARD. In recognition of time, we have two other sets of witnesses to defend their arguments. Could you summarize your position, say, in the next 2 or 3 minutes to give the other people who have travelled from the West Coast time to present their case?

Mrs. DOMINIC. I would like to ask one question. When we presented our position papers which included the material that we are talking about today, what happened to it? Has that been made available to the persons of the Subcommittee?

Mr. GERARD. Mrs. Dominic, to whom did you present that information?

Mrs. DOMINIC. The Bureau of Indian Affairs.

Mr. GERARD. Would it be possible, Mr. Reeser to make certain a copy of the Grand River Band Descendants Committee materials are made available to this committee?

Mrs. DOMINIC. We are given 2 weeks, did you say, to present any further testimony?

Mr. GERARD. Yes, the hearing record will remain open for 2 weeks.

Mrs. DOMINIC. To whom should that be sent?

Mr. GERARD. Mail it directly to Senator Abourezk. We will give you the exact mailing address.

[Subsequent to the hearing the following was received by the committee:]

STATEMENT OF RODNEY J. EDWARDS, OF EDWARDS, EDWARDS & BODIN, OF DULUTH, MINN., ATTORNEYS FOR GRAND RIVER BAND OF OTTAWAS DESCENDANTS COMMITTEE

Mr. Chairman and Members of the Subcommittee, S. 1659 is a bill that was introduced at the request of the Grand River Band of Ottawa Descendants Committee by Senator Philip A. Hart of Michigan, after the plan for the use and distribution of the judgment funds submitted by the Secretary of Interior pursuant to the Act of October 19, 1973, (87 Stat. 466) was withdrawn by the Secretary of Interior after submission to the United States Senate by Senator Philip A. Hart of a Resolution to disapprove the Secretary of Interior's plan.

Prior to the Act of October 19, 1973, which provides for the submission of plans by the Secretary of Interior, there had been submitted to Congress HR 1100 supported by the Washington, D.C. office of the Bureau of Indian Affairs, which was passed by the House of Representatives on May 4, 1971, without any knowledge or participation by the Grand River Band of Ottawa Indians. Tribal representatives requested opportunity to be heard when HR 1100 was before the Senate Interior and Insular Affairs Committee and as a result HR 1100 was not reported by the Senate Committee. Extensive efforts were undertaken to resolve the differences concerning the provisions of HR 1100. These efforts included the creation of the Grand River Band of Ottawa Descendants Committee which the Bureau of Indian Affairs agreed to recognize as the group to speak for the tribal members. Pursuant to resolution adopted unanimously by the Grand River Band of Ottawas Descendants Committee and at their request, Senator Philip A. Hart on July 19, 1972, introduced in the Senate S. 3813 and reintroduced on January 26, 1973, S. 558, a bill substantially in substance the same as S. 1659. No action was taken on S. 3813 and S. 558 because of the inactment of the Act of October 19, 1973, (87 Stat. 466), which changed the procedures.

Final Judgment was entered by the Indian Claims Commission in Docket 40–K on March 27, 1968, (19 Ind. Cl. Comm. 95). Payment of the Judgment was appropriated by Act of Congress of October 21, 1968, (82 Stat. 1190, 1198). Over seven years has now elapsed since announcement was made to the members of the Grand River Band of Ottawas that the Judgment had been entered in their favor in Docket 40–K. Many documents have been filed before this Committee including the document labeled "Appendix" filed with the Secretary of Interior's plan pursuant to the Act of October 19, 1973, containing copies of pertinent documents selected by the Secretary of Interior, including a transcript of the Grand River Band of Ottawas' Hearing of Record held pursuant to the Act of October 19, 1973. It is requested that this Appendix be made a part of the record of this hearing. Throughout this whole record and during this lapse of time of over seven years, there is not one appearance, letter or document in the record of any Indian asserting or claiming that the Judgment funds should be distributed as the Washington BIA office has so dogmatically insisted, in equal shares to all lineal descendants regardless of blood quantum. If the desires of the Indians affected makes no difference, why then did (1) the BIA tell the Indians to organize the Grand River Band of Ottawas Descendants Committee as a group they would recognize to speak for the tribal members, and (2) why did Congress in the Act of October 19, 1973, require the Secretary of Interior prior to the final preparation of a plan, to ascertain the desires of the Indians and hold hearings of record?

In all instances by letters, resolutions, statements and testimony in the transcript of the hearing of record, the Indians have uniformly and unanimously stated they want the participation in the distribution limited to one-fourth (¼) or more degree of Grand River Ottawa blood quantum. In short, the Secretary of Interior's position is not what the Indians want and is in no respect supported by the Indians.

Northern Michigan Ottawa Association, whose membership consists of Ottawa Indians including the Indians of the Grand River Band of Ottawa, was organized under the direction of and pursuant to notice given by the Bureau of Indian Affairs at a meeting held June 5, 1948. Since its organization the Northern Michigan Ottawa Association has assembled and maintained tribal rolls identifying the Ottawa Band affiliation and degree of Ottawa Indian blood quantum of its membership from the basic government treaty annuity rolls. There is presently identified on the rolls over 3,000 persons of Grand River Band of Ottawa descendancy. The Bureau of Indian Affairs has and still does recognize the certification of the Northern Michigan Ottawa Association as to blood quantum qualification of the Ottawa Indians to participate in education scholarships, minority employment and Indian hospitalization programs of the United States made available by Congress to the native American Indian.[1]

The Commissioner of Indian Affairs in his statement before this Committee states determination of the degree of Indian blood would be difficult. This is not a fact. The recognized Northern Michigan Ottawa Association records which have been accumulating over the period of some 28 years are available to do so. As in all per capita distribution administrative appeal procedures are set up in respect to determination of qualifications. Numerous Indian Reservation tribal distribution acts have been adopted by Congress that specify equal per capita shares to each person enrolled or entitled to enrollment in the tribe. In almost every case the Indian Reservation tribes have a blood quantum requirement for enrollment. In many cases there does not exist as complete a roll to determine ancestry as we have here in the "Durant Roll of 1908, approved by the Secretary of Interior, February 18, 1910, or on the payment roll derived therefrom approved May 17, 1910." It is submitted that it would be far more difficult to determine distribution on the basis of ancestry without limitation of blood quantum, then it would be with the one-fourth degree requirement of blood quantum.

Congress has prescribed a qualification of one-fourth degree of Indian blood quantum in other distribution acts where non-reservation Indian tribes were involved such as

[1] See letter dated October 7, 1975, to Honorable Carl Albert, Speaker of the House of Representatives from Waunetta Dominic, Chairman, Grand River Band of Ottawas Descendants Committee; Affirmative statement of BIA officials made at hearing on S. 1659 held September 26, 1975; Memorandum dated June 3, 1974, from Superintendent, Great Lakes Agency to Area Director, BIA Minneapolis, wherein the Superintendent, states "In regard to the Grand River Ottawa Indian blood requirement, we feel this is appropriate. Over the years we have recognized the records kept by the Committee for certification purposes without being directed to do otherwise." (which appears in "Appendix" to Secretary of Interior's Plan previously identified herein); and Memorandum dated June 7, 1974, from Area Director, Minneapolis to Commissioner of Indian Affairs wherein he states "We concur with the Superintendent of the Great Lakes Agency in recommending per capita distribution to those possessing at least one-fourth degree or more of Grand River Ottawa blood." (Appendix)

Emigrant New York Indians, Act of September 27, 1967, 81 Stat. 229; 25 USC 1441, 1142 (C); Omaha Tribe, Act of September 14, 1961, 75 Stat. 508, 25 USC 961 and Act of November 2, 1966, 80 Stat. 1114, 25 USC 967a; Ponca Tribe, Act of September 5, 1962, 76 Stat. 429, 25 USC 971 (distribution of assets upon termination); Menominee Tribe, Act of December 22, 1973, 87 Stat. 770, 25 USC 903, 903b (b) and (c)) Restoration of Federal Supervision membership requirement of at least ¼ degree of Menominee blood).

There is no precedent or legal basis in Anglo-Saxon law or American Indian law for distribution in equal shares regardless of lineal descendency as advocated by the Commissioner of Indian Affairs. However, there exists a long line of precedents and legal basis based upon a blood quantum limitation for equal distribution as evidenced by the blood quantum enrollment requirements of the various tribes of Indians which has been recognized by the government as qualification for equal share in the Indian tribal reservation assets, the annuity payments under treaties and in the distribution of Judgment funds and tribal assets pursuant to Acts of Congress.

The Commissioner of Indian Affairs also objects to the proviso of Section 2 of S. 1659 "that no person shall be eligible to have his name placed on the roll who at the same time is an enrolled member of any tribe other than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan." This objection is not understandable. Tribal constitutions and enrollment ordinances, which have been approved by the Bureau of Indian Affairs, have a similar provision and the distribution of Judgment funds acts pertaining to such tribes have so limited the participation by providing distribution to only those members enrolled or entitled to enrollment. This specific exception was included in the Omaha Tribe Distribution Acts, 25 USC 961 and 967a.

The Commissioner of Indian Affairs also objects to the provision of S. 1659 that provides for payment of the expenses of the Grand River Band of Ottawas Descendants Committee. It is submitted this is a legitimate expense. At all meetings called of the Grand River Band of Ottawa Indians, this provision for payment of these expenses has been approved and endorsed. If the declaration of policy of the "Indian Self Determination and Education Assistance Act" adopted January 4, 1975, Public Law 93-638, means anything the Indian determination to have these expenses paid should be honored. This same declaration of policy should be kept in mind in passing on all the requests of the Indians as contained in S. 1659.

COMMISSION ON INDIAN AFFAIRS,
DEPARTMENT OF MANAGEMENT AND BUDGET,
Lansing, Mich., June 12, 1974.

Mr. ROBERT DOMINIC,
President, Northern Michigan Ottawa Association,
Petoskey, Mich.

DEAR MR. DOMINIC: During our recent spring conference, June 7-9, 1974, at Camp Kett Conference Center, Tustin, Michigan, our Commission acted upon the request by the Grand River Ottawa Indians. They requested our support and endorsement of their position as stated in their position paper on the distribution of judgment funds in 40K passed May 18, 1974.

Enclosed please find a copy of the resolution which was passed on this request. Enclosed, also, please find a portion of the minutes of the August 25, 1972, meeting which deals with a similar request by your organization, Mr. Dominic. Mr. Bill LeBlanc of our office explained to me that while this action was taken, the Director at the time Mr. George Bennett did not send copies of the resolution or letters about the resolution as he was instructed to do. Please accept the sincere apology of the Commission for action not taken in its behalf by its Director. It is important to note that August 25 preceded the Judgment Award on October of that year. It is unfortunate that although our Commission had acted on your request no one knew about it.

Copies of this letter and resolution are being directed to Tribal Operations in Washington, D.C. If we can be of any further assistance to you in this matter do not hesitate to call. We fully support the position taken by the Ottawa Nation on its judgment claim.

Sincerely,

JAMES R. HILLMAN,
Director, Commission on Indian Affairs.

RESOLUTION 1974-110 ADOPTED BY THE MICHIGAN COMMISSION ON INDIAN AFFAIRS, DEPARTMENT OF MANAGEMENT AND BUDGET

Whereas the Michigan Commission on Indian Affairs is authorized to assist Indians obtain all services which are due Indians in the State; and

Whereas the Grand River Ottawa Indians have unanimously adopted a resolution to pay all judgment claims awards to all members of the tribe who are ¼ degree Indian blood quantum; and

Whereas the Federal government in its dealings with Indian tribes has continued to oppose Indian self-determination by distributing judgment claims awards on a descendent basis; and

Whereas the Federal government maintains ¼ degree Indian blood quantum as mandatory for receiving its services; Therefore be it

Resolved, That the Federal government recognize the sovereign request and resolution of the Grand River Ottawa Indian's position on distribution of judgment funds in S. 558, a bill introduced by Senator Hart and referred to the Committee of Interior and Insular Affairs.

Submitted June 7, 1974.

Approved: 7, yes; 0, no.

JOHN LUFKINS,
Chairman.

DORIS K. ADAMS.
Secretary.

NORTHERN MICHIGAN OTTAWA ASSOCIATION,
Petoskey, Mich., October 14, 1975.

Senator JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Please find enclosed the material I asked to submit while testifying on the Grand River claim Docket 40K (September 26, 1975). This material is to be made a part of the Senate Sub-committee hearing report as per agreement.

A copy of the letter written by Rogers B. Morton, Secretary of the Interior, to the Honorable Carl Albert can be obtained from the Bureau of Indian Affairs or through Senator Hart's office.

Very truly yours,

WAUNETTA DOMINIC,
Chairman, Committee of Grand River Band of Ottawa Descendants.

PETOSKEY, MICH.,
October 7, 1975.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR SIR: This letter is in regard to the letter you received from Rogers C. B. Morton, Secretary of the Interior, on October 30, 1974, concerning Ottawa judgment funds awarded in Docket 40-K.

In paragraph 4 of that letter it was stated that the governing bodies of the Grand River and other bands that comprise the Ottawa and Chippewa tribes were dissolved and ceased to function as organized entities. I would like it stated at this point that the government disbanded the Indians and declared them not organized. The Indians were not disbanded through this declaration.

It is further stated that they are not formally organized. That is untrue as they have been organized for years (since 1948). A representative of the Washington Bureau of Indian affairs declared (on tape) that the Northern Michigan Ottawa Association was one of the best organized groups in the United States. The number 1,000 is used in this paragraph denoting the number of Grand River Indians that are members of the Northern Michigan Ottawa Association. This number is false as the Northern Michigan Ottawa Association has recorded over 3,000 persons of Grand River Band descendancy and further, prosecutes claims and speaks on behalf of all Grand River Indians, not only for it's paid-up members. It further states in this paragraph that the blood degree for the individual members "apparently" is made by the association. This also is wrong as determination of blood degree is made by the tribal chairman,

jointly with the Indian involved, through the use of the United States Government rolls.

In paragraph 5 it states that "the Northern Michigan Ottawa Association does not represent and is not recognized as a tribal entity". This statement is untrue as the Bureau of Indian Affairs has recognized this association in all their dealings with the non-reservation Ottawas and Chippewas of Michigan concerning matters pertaining to education, minority employment, government hospitalization, and so forth. Nearly 500 educational scholarships have been awarded by the Bureau of Indian Affairs to Indian individuals of the Ottawa and Chippewa tribe through the signature of the chairman of the tribal council of the Northern Michigan Ottawa Association. Recently (September 26, 1975) a hearing on the Grand River claims was held before the Senate subcommittee in Washington. At that time the Washington Indian Bureau was asked by Sen. Abourezk if they had recognized the tribal work the Northern Michigan Ottawa Association was doing for them and they answered "yes".

The Northern Michigan Ottawa Association has represented the non-reservation Ottawa and Chippewa tribe on all Federal matters ever since the superintendent of the Tomah Agency (now known as the Great Lakes Agency) called for the formal organization of non-reservation Ottawas and Chippewas of Michigan in 1948.

It further states in this paragraph that the membership of this association "does not include all persons of Grand River Band descendancy". This would also hold true in nearly every case concerning organizations. Most organizations have the majority in their membership books. We too, have the vast majority of the Grand River Band on our membership. Very few organizations have a membership that includes all persons.

In paragraph 6 of this letter a small history of the Grand River Band was given explaining the formation of a Grand River Descendants Committee. It was stated in this paragraph that the Northern Michigan Ottawa Association was not considered a representing entity for all Grand River Band of Ottawa descendants.

The Deputy Commissioner suggested that a committee be selected from among the several communities of the Grand River Band throughout Michigan. This was done; however, I would like to point out at this time that the Northern Michigan Ottawa Association has within their membership nearly all persons of Grand River Band descendancy. Therefore this committee consists of members of the Northern Michigan Ottawa Association, as few persons can be found outside of this association that belong to the Grand River Band.

Regarding paragraph 7, it stated that the committee of descendants agree to "waive" the requests in all the "Association's" resolutions pertaining to the distribution and handling of the judgment funds except for the one-quarter degree request. This is untrue because:

1) This committee has not the authority to change any resolutions of the Association pertaining to them. This would have to be voted on by the membership.

2) This was only a contention of the bureau.

3) The Grand River Committee can only stay within the limits of actions that have already been voted on by members of the Grand River Band.

Regarding the so-called request of the Grand River Committee, stipulating the age of majority to be established at 18 years of age; this is not an unusual request as the State of Michigan has established that the age of majority shall be 18. The portion containing the request that persons named on the Grand River Band be descendants of the Durant Roll has already been established at council meetings by vote of the Indians and therefore would not need a second approval by the Grand River Indians.

Paragraph 8 states that the committee requests that the Durant Roll be used in proposed legislation as a roll from which to trace "lineal descendancy". This is not true, as the committee is totally against lineal descendancy, but they did recommend its use as a basic roll. The Bureau of Indian Affairs states that the Durant Roll does not include the names of all Grand River Band descendants who were living at the time of the preparation of the Durant Roll, and furthermore stated that the chairman of the committee agreed that she knew of the exclusion of some persons whose full brothers and sisters were named on the roll, and that other means of establishing eligibility should be made available to such persons. Let us remember that no roll will be perfect, even the new one. We will find a case similar to the one named above as long as we deal with the great number of persons as are being dealt with in this situation. If the Bureau of Indian Affairs made the mistakes that are pointed out in this letter with the making of the Durant Roll, what guarantee do we have that they will not likewise make mistakes should they be allowed to make a new roll of the Grand River Band?

Membership and eligibility in any tribe is the sole responsibility and authority of the tribe and let me point out at this point that regardless of whether or not the Ottawa and Chippewa of Michigan are classed as reservation, non-reservation, or given any other classification, they are still the same people who gave up their lands and rights to the United States government. Just because the federal government gave them a special class did not take away the right of all tribally recognized members to receive claims due them. Michigan treaties were made by the Ottawa and Chippewa tribes of Michigan, not by any special group such as reservation Indians, etc. Therefore, any privileges or compensation given to this group must be given equally to only those members whom this tribe (as a majority) so determines to be eligible. Let me further state that in all dealings, concerning the Michigan Indians, that I have ever found in the archives, treaties, etc. the federal government only dealt with persons one-half or more Indian—e.g. the halfbreed roll of 1836 was made to pay persons under one-half blood degree as a goodwill gesture on the part of the true Indian himself. (See article 6 (7 stat. 491) of the treaty of 1836.) You will note in the 6th article that the President himself would not allow individual reservations for persons under one-half blood degree and, therefore, only through the generosity of Indians one-half or more Indian did persons of one-half blood degree receive anything under the treaty of 1836. Let me further point out that in the supplementary article of the treaty of 1836, it states that in order to guard against any misconstruction in the provisions and the just rights of the Indian, it is stated that no person receiving any commutation for a reservation or any portion of the fund provided for by the sixth article of the treaty of 1836, shall be entitled to the benefit of any part of the annuities herein stipulated. Note: We are now talking about those Indians of less than one-half blood degree which the president of the United States refused to allow benefit of reserves to). Why should we now allow the very same persons (one-half blood degree and under) to determine the method of payment and eligibility of claims stemming from these treaties? It is very evident the president himself would not allow it and in this supplementary article stated that persons of this category shall not be entitled to benefit by any part of the annuities. Yet we find the Washington Bureau of Indian Affairs still coming to those people of less than one-half blood degree and asking that they determine the eligibility and participation in claims payment of the very same claims when it was determined by the president that they had no further entitlement.

Lineal descendancy is totally foreign to the Ottawa and Chippewa tribes of Michigan and policy toward this tribe would certainly be changed should lineal descendancy be allowed.

In the 10th paragraph of this letter, it stated the overwhelming majority of the Grand River Band descendants favor restricting participation in the judgment funds to persons of not less than one-fourth degree Grand River blood. If the Indians are dealt with democratically, they should have the same rights as other persons in regard to "majority rules". They should not be subject to dictatorship.

Paragraph 11 states that the Department of Interior does not support the Grand River Indians request of one-quarter line, even though the Hearing of Record, held May 18, 1974, definitely showed the Indians overwhelming agreement on the quarter line.

The Department of Interior states that it is not consistent with the long standing policy of the Bureau of Indian Affairs in respect to descendancy situations. What makes the bureau feel that this is a descendancy situation today when in 1910, and other dealings since 1821 (which includes the Grand River Indian) they limited participation. The 1910 enrollment (which includes the Grand River Band) limited its benefits to persons of one-half and more blood degree. (See attached paper.)

This so-called policy of the Bureau of Indian Affairs is an outdated method which should have been done away with years ago. Democracy calls for the participation and rights of all people to determine their own future. Let the Indian determine his future without being dictated to by bureaucratic methods. We are not concerned with past situations nor do our situations have to be similar to other tribal judgment fund disbursements. If we held that the requirement for participation be consistent with other factors related to past Ottawa situations, then certainly (as the president has so determined) persons of less than one-half blood degree would not be participating at all. Regarding the 1853 Annuity Roll which contains the names of eligible Grand River Indians, stemming from the treaty of August 29, 1821, you will find this roll contains a recapitulation of 1,237 Indian names, of which only 27 would be questionable as not being full bloods. If research were done concerning these Indians, you would find that this list of single Indian names is characteristic of the Indian nation before he became associated with the white civilization. This is not characteristic of our

present day generation of Indians. Today they use first and second names. Taking this into consideration, it certainly would be understood that those persons of the 1853 Annuity Roll would be full or nearly full Indian blood degree. I find only ten (10) names that could be questionable (27 total, if families too were added). These 10 individuals are not listed under full Indian names, so perhaps could be of less than full Indian. This type of enrollment is undoubtedly an enrollment of Indians as they truly existed in the 1800's.

Paragraph 12 of this letter states that the Durant Roll and other offical Ottawa and Chippewa rolls do not give blood quantums. What tribal rolls do? Tribal rolls list persons who are eligible under certain criteria. The Durant Roll does not give blood quantum on individuals, but states definitely, that "descendants of half-breeds or mixed bloods are to be removed from the roll". This surely is a blood-degree roll and limits participation to one-half degree or more. This paragraph states that it would be difficult to establish Indian blood quantums. This is untrue as we have already established proof on hundreds of persons and they have been accedpted by the Bureau of Indian Affairs. It also states that only the names of the heads of families were included on some payment rolls which are "long forgotten". These names are not forgotten by the Indians as they know their Indian names. It's the white man who doesn't know anything about the Indian name. Horace B. Durant was a white man and would have trouble identifying Indian names.

This is not the case with our identifying agent as he is an Indian of the Ottawa and Chippewa tribe and can speak Indian and would be able to correctly identify Indian names and families. It further states in this paragraph that perhaps two-thirds of the tribe are known by entirely different names from those by which they were known in 1870. This may be true (but let's keep in mind—it's only guesswork by the bureau) however, the Indian still knows his identification with these names and we have proven that with our research in the past 30 years.

In paragraph 13 a statement was made that the chairman of the committee assumes that all of the persons named on the Grand River portion of the Durant Roll were full-bloods. This can be assumed, but only as Durant himself indicated in his statement that "children of half-breeds are hereby removed". By using this statement, together with the fieldnotes attached after each name, one can certainly identify those persons who were full-bloods and half-breeds. In regard to allotments and patents mentioned in this paragraph, let us keep in mind that the president of the United States did not allow reservations to persons under one-half blood degree as stated in the 6th article (7 Stat. 491) of the Treaty of 1836. In section three of that paragraph it states that the chief or headman of a band may give the right of enrollment to any Indian belonging to such band. If this can be done today through what is now called certifications, then tribal entity is already established and has been for a number of years.

Paragraph 14 states that the Commissioner of Indian Affairs advised Durant to use his own judgment and discretion. How ironic that this whiteman could be given the right to say who could or could not be members of our tribe and yet we must go through hearings and plead our case time after time, just so we Ottawas can state whom we believe should be participating members of our tribe. This is not justice, this is bureaucratic tactics. The non-reservation Indian of Michigan is a poor nation. They are handicapped even more than the reservation Indian in that no federal fundings of any form is allowed these people in fighting their case in Washington. We have been burdened financially by the Washington Bureau of Indian Affairs for years simply because they will not allow simple rights and justices for these people. They are receiving very very little for the land they once owned and it is unjustified to make them bear further expense just to receive the minute payment they are receiving for the vast territory they ceded to the United States.

It is stated in paragraph 15 that Horace B. Durant was to use the 1870 roll as the basis for the 1908–1910 roll. On the basis of this method used in 1910, it's altogether fitting and proper that we use our 1908 Durant Roll as the base roll for our new enrollment. If this were not done the new enrollment would have to be based on mere "hearsay".

Paragraph 16 enlightens us on the Indian policy used formally concerning the Ottawa and Chippewa tribes of Michigan in that they were allowed to determine their own tribal membership. The Washington bureau now desires to take away that right and determine, for the Indian, eligibility for membership. It further states in this paragraph that the chiefs and headmen were willing to permit enrollment of all those half-breeds and their children then living, who had been enrolled in 1870, but not the half-breeds and their children who had been denied enrollment in that year. This clearly proves that the Ottawa and Chippewa Indians of Michigan were trying to keep their enrollments specifically for those whom they felt were entitled.

In paragraph 17 of this letter you will not the Commissioner of Indian Affairs instructed Durant to include only those persons whom the Indians desired enrolled. Why can't the Indian of today have the same rights of determination?

Paragraph 20 shows that the Commissioner of Indian Affairs allowed, in 1910, the enrollment of persons whom the Indians themselves determined were eligible.

In paragraph 21 it is stated there were two classes of mixed blood Ottawa and Chippewa Indians involved in the Durant Roll.

1) Those whose names were checked with red as being ineligible to share in the judgment as it was a policy to enroll only those Indians whom the tribe determined eligible. In these cases some of the children married into the white race, thus were refused membership. Other children married Indians and were continued on the enrollments.

A letter written on May 16, 1910, to the Secretary of Interior by the Commissioner of Indian Affairs, R. G. Valentine, states that "all living descendants of heads of family were not enrolled in 1870 and that the chiefs and headmen were willing to permit the enrollment of all those half-breeds who are now living and who were enrolled in 1870 but not the children of such half-breeds". This definitely shows the Indian recognized as eligible participants those persons who were one-half and more Indian.

2) The other class of Indians denied on the 1910 Durant Roll were those persons who were receiving rights and benefits from other tribes. This shows that the Ottawa and Chippewa tribes of Michigan did not recognize dual membership with other tribes, and their decision concerning this was respected by the Commissioner of Indian Affairs as indicated in his letter of May 16, 1910. It may be stated that the appearance of an individuals name on the Grand River portion of the Durant Roll does not support the assumption that the individual was necessarily a full blood Grand River Ottawa, but it certainly supports the assumption that the person was a full blood to the extent indicated by the government agent. In other words, H. B. Durant indicated by notation on the rolls, individuals who had married white or whose lineage was from the white race. We can, however, assume that all persons in this Grand River portion of the Durant Roll were one-half and more Indian, as it is clearly indicated on the Durant Roll that children of half-breeds were removed.

In paragraph 22 it is stated that the blood degree "might not be accomplished at all" and could not be done with accuracy as it must be based on oral testimony. When it was said that this might not be accomplished, we must indeed assume that it was accomplished, otherwise the half-breeds could not have been taken off the rolls. What's wrong with oral testimony? It is used every day in our courts. Isn't an Indian's oral testimony the same as the white man's oral testimony? It states further in this paragraph that the degree of blood does not determine the right to enrollment. Again this is dictatorship. Ask any Indian and he will tell you that it makes a great difference in determining eligibility.

In paragraph 23 of this letter it was stated that Durant advised the Commissioner, "the degree of blood was not considered; indeed, the degree of blood would be difficult, if not impossible, to ascertain". If this were true, how could the half-breed roll have ever been made? Blood degree certainly was considered or they wouldn't have been able to take the children of half-breeds off the Durant Roll.

You will note in paragraph 24, the Grand River Band Hearing of Record contained favorable testimony toward the quarter-line blood degree and also that dual enrollment shall not be allowed. These requests from the Grand River Band itself must be honored.

In paragraph 25, the letter states that "neither the Grand River Band of Ottawas nor the Ottawa and Chippewa tribe of Michigan is a viable organized tribal entity in which a person can be an enrolled member". Under federal law concerning education, you must be an enrolled member of a tribe to get a scholarship. If we follow federal law and the so-called statement by the bureau that the Grand River Band of Ottawas and the Ottawa and Chippewa tribe of Michigan (this includes the Sault Ste, Marie Band) are not enrolled members of any tribe, then certainly a great number of scholarships, minority employment and hospital certifications have been illegally paid out and should be accounted for by someone. Further in this paragraph the bureau states "We reiterate our belief * * *". Why should you (Washington Bureau) reiterate? You've already taken the land from the Grand River Band and the Ottawa and Chippewa tribe of Michigan. It should now be up to the party who gave up the land to determine the payment method to be applied in this case. As for the statement of "your belief", shouldn't the belief of the Indian be the determining factor, since it's their fund?

In paragraph 26, it states that "roll preparation will be handled by the Great Lakes Agency of the Bureau of Indian Affairs". The desire of the Grand River Band is

that their roll will be utilized and that they will work together with the Great Lakes Agency in the final preparation of this roll.

In the final paragraph of this letter mention is made of the bureau's "plan" and "appendix". I would like to state that the "plan" of the Indian should be the important and vital consideration of the Interior Commission. We, the Native Americans of this country, are tired of still being treated the same way that we were one-hundred and fifty years ago. We do not believe the same policies as were used on our forefathers should still be the deciding factors in any Indian legislation, pertaining to our present day Indians. The deciding factor in this case should be the desires and requests which are made by the eligible Indian involved. When speaking of the word "eligible", we respectfully request that your committee carefully consider the desires of the Grand River Band. Whenever the Indian mixes with the white race and the blood degree falls below one-half, then that person starts to become at that point, more white than Indian, and as this degree begins to dwindle down to a smaller degree then any payment to this person would be the same as "making payment to a white man for taking away our land".

Another false statement made by the Bureau of Indian Affairs is that the Northern Michigan Ottawa Association is an organization of the Ottawa, Chippewa and Pottawatommies. This Association is comprised of Ottawas and Chippewas only.

Finally, I would like to respectfully request your full consideration in all matters mentioned in this letter. Only through allowing the Native American a right to self determination can he ever obtain his rightful position as a first-class member of our society.

Sincerely yours,

WAUNETTA DOMINIC,
Chairman, Grand River Band of the Ottawa Descendants Committee.

cc: U.S. Interior and Insular Committee, Senators: Hart, Griffin, Abourezk, and Jackson.

TAKEN FROM DURANT ROLL

Page 1—Durant Roll—Heading. Census Roll of all persons and their descendants who were on the roll of the Ottawa and Chippewa Tribe of Michigan in 1870 and living on March 4, 1907. Note: The descendants of half-breeds or mixed bloods appearing on this roll are checked in red pencil.

The persons named on this roll who have affiliated with, received rights, or are enrolled as members of other Tribes are checked in blue pencil.

Page 327. I hereby certify that the foregoing roll, of pages numbered from one (1) to three hundred and twenty six, (326) inclusive, prepared by me under Indian Office instructions of July 22, 1908, (approved by the Department July 23, 1908) Land 46740011907 —and 17770-1908, —and supplemental instructions dated July 19, 1909, —Land Population, 55605-1909, —contains the names of Seven Thousand Three Hundred Ninety-six (7396) persons, all of whom are members or descendants of members enrolled in 1870 with the Ottawa and Chippewa Tribe of Indians in Michigan and living on March 4, 1907, and is a correct and complete enrollment of such persons to the best of my knowledge, information and belief.

Dated this 27th day of Oct. 1909.

(Signed) HORACE B. DURANT,
Special Agent.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
January 25, 1910.

The foregoing roll of the Ottawa and Chippewa Indians of Michigan, prepared by Special Agent, Horace B. Durant under Department instructions of July 23, 1908, is respectfully submitted to the Secretary of the Interior with the recommendation that it be approved except as to the persons designated by the following numbers: 747, 1331, 2437, 3957, 4462, 4684, 6151, 6273, 6275, 6496, 6525, 7028, 7035,

and 7168, and also as to those persons checked in red and in blue pencil—the total number of names approved being 5444.

(Signed) R. G. VALENTINE,
Commissioner.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY
February 18, 1910.

The foregoing roll of the Ottawa and Chippewa Indians of Michigan is approved as recommended above by the Commissioner of Indian Affairs.

(Signed) FRANK PIERCE,
First Assistant Secretary.

Mrs. DOMINIC. That would conclude our statements that we can make today. However we have an awful lot more material we can present, and I would like to make one further statement and that is that persons who work with our committees and members, official members of our tribe are all traced down and their ancestry is confirmed and on record. We do not accept an officer or person who works with our committee unless we can trace them down as being a person directly involved with the claim that we are working with.

Mr. GERARD. Thank you very much.

Our next witnesses are Mr. Cloquet, chairman of the Cowlitz Tribal Council, and Mr. Wilson, chairman of the Cowlitz Tribe.

STATEMENT OF JOSEPH E. CLOQUET, CHAIRMAN, COWLITZ TRIBAL COUNCIL

Mr. CLOQUET. Mr. Chairman and members of the committee, I am Joe Cloquet, past chairman of the Cowlitz Indian Tribe and newly elected chairman of the Tribal Council.

I address this distinguished committee today on behalf of the general membership of the Cowlitz Tribe; the present-day successor in interest to the original Cowlitz Tribe, who petitioned Senator Jackson to introduce legislation contained in S. 1334 (Cowlitz Resolution 4–75, attached). I am also submitting for your information a petition signed by 423 enrolled members of the Cowlitz Tribe, which we estimate to be near the entire adult population of the 1,407 members of the Cowlitz Tribe that meet the Cowlitz requirements for enrollment; reaffirming their stand that:

"We, the following persons of Cowlitz descent, totally reject the plan for distribution of Cowlitz Judgment Funds submitted by the Secretary of Interior, November 4, 1974 and reaffirm our support of the plan submitted by the Cowlitz Indian tribe that:

1. Distribution be made by blood quantum only, up to and including one-sixteenth.

2. That no claimant previously alloted or receiving funds from any other tribe, except through inheritance, be eligible for money from the Cowlitz settlement and that the sum of $10,000 be set aside prior to per capita division for the purchase of a land base.

We continue to support our stand that those enrolled in recognized tribes have continuously and will continue to receive Bureau services as well as participation in other claims judgments and other dividends distributed by their respective tribal groups, whereas the Cowlitz Tribe will receive nothing for their Indian birthright except what is distributed in the disbursement of the Cowlitz Judgment Funds."

I certify these 423 signatures to be true and correct to the very best of my knowledge. The Cowlitz is not, as the Secretary of Interior argues, a disorganized group of Indians but has continued as a tribal entity and can prove our aboriginal heritage from the 1850's to the present time. We are a bona fide tribe of Indians, operating under an up-to-date constitution and by-laws (copy attached), and a current membership roll. The Cowlitz are a member tribe of the Small Tribes Organization of Western Washington, National Congress of American Indians, and Affiliated Tribes of Northwest Indians. We are recognized as a tribe by the state of Washington and have representation on the governor's Indian Advisory Committee of Washington State.

We maintain that the Cowlitz Tribe is an organized tribal entity that cannot only prove its aboriginal heritage, but can confirm its modern day existence. Cowlitz identity has been subject to various forces designed to destroy its tribal organization, nevertheless we have maintained our individualism as a political, cultural and tribal entity.

S. 1334 is the Claims Distribution Plan for the Cowlitz Tribe lacking one short vote of being unanimously endorsed by the general membership of the tribe, and reaffirmed in the foregoing petition.

In the House hearings, the Assistant Secretary of the Interior stated that, "The Department favors the enactment of this bill H.R. 5090 if amended as suggested in the Department's report." The Department's report then proceeded to reverse the entent of the House resolution back to the original plan presented by the Secretary of the Interior and diametrically opposed the plan submitted, time after time, by the Cowlitz Tribe.

The Department went to great pains to help us develop and submit our plan, and then totally rejected it, saying that, "The tribe is unorganized, nonfederally recognized, and lacking a tribal entity for programming judgment funds." Does the white man still speak with a forked tongue?

The House Committee on Insular Affairs, however, accepted our distribution plan except for section 3, subsection 1: "$10,000 will be set aside by the Secretary of the Interior for the purchase of land for the benefit of the Cowlitz Tribe of Indians," which was deleted.

I submit to you, gentlemen, that this section is the very heart of the legislation to save our tribal entity, tribal ties, our Indianness denied us in this past century, and what culture we have left. Many of us, and I for one, would gladly give up the per capita distribution entirely for this provision in S. 1334. I am not willing to give up my Indian heritage for dollars. I will not stand by and see my people disbursed and become a small footnote to history.

In the House hearing our tribal chairman, Mr. Wilson, in discussing the $10,000 for land purchase stated that, "We will continue to strive for it as long as we exist," and also that, "We will continue to strive for Federal recognition, which we were deprived of simply because we would not sign the treaties." I am in complete accord with these remarks.

We have a petition for Federal recognition submitted to the Department of Interior, September 19, 1975. This petition will be filed with the clerk of the committee. We have completed plans for a Cowlitz Cultural Center that we intend to put on the $10,000 tract

of land we acquire through this bill. These plans will be submitted to the clerk of the committee also.

Gentlemen, it is within your power, if this bill is passed without deletion of this very important section, to save our people and our Federal Government, thousands and thousands of dollars and man-hours. We are willing to take our chances on the present wording of section 3, subsection 1, that neither grants nor denies Federal recognition.

We concur in the distribution of funds as it reads in the bill, and urge this powerful committee who holds the existence of a once powerful tribe in its hands, to pass S. 1334 without deletions or amendments.

Thank you for giving me the opportunity to speak in favor of this legislation. My sincere hope is that I have conveyed to you the feelings of my fellow tribesmen who have three times in the past 12 months, contributed their hard-to-come-by dollars to send our tribal chairman and myself to Washington to achieve passage of their legislation.

Again, my thanks.

Mr. GERARD. I think the best thing would be to hear from Mr. Wilson and then I would like to pose some questions.

STATEMENT OF ROY WILSON, CHAIRMAN, COWLITZ TRIBE

Mr. WILSON. I am Roy Wilson, chairman of the Cowlitz Tribe of Washington, and I am here regarding S. 1334 introduced by Mr. Jackson and Senator Magnuson, and H.R. 8090 pertaining to distribution of funds according to Docket 218. As Chairman of the Cowlitz Tribe of Indians, I stand before you today representative of the strong feelings of the overwhelming majority of my people (74–1, March 1, 1975) that we request Congressman Meeds and Senator Jackson to introduce legislation contained in the bills we are discussing today.

Precedent is a strong point of law, and we are asking for the power of precedent to be considered based on precedent set by distribution of funds to other tribes, namely:

1. That other tribes have been allowed to set blood quantums for distribution of funds. The practice is of common knowledge among recognized tribes.

a. That our determination of one-sixteenth blood quantum would be a distribution factor allowing many of the children among the Yakima-Cowlitz families to participate in the distribution who have been denied allotments and/or enrollment by the Yakimas due to the one-fourth blood quantum factor.

I might insert here my own father, a number of my own aunts and a host of cousins are enrolled allottees of the Yakima. This bill would disallow them, but we who are the children who are disallowed by the Yakimas will receive from this bill the 60 percent that the Department referred to, which is probably closer to 50 percent. A large portion of that 50 percent of that tribe of Yakima-Cowlitz would receive in their families by way of the one-sixteenth blood quantum factor who are denied, even though living on the reservation, denied by Yakima rolls.

I continue with my testimony.

Other tribes have been allowed to disallow those who have been enrolled and/or are allottees in other tribes, i.e., Snohomish Tribe, Public Law 92–30, H.R. 1444, June 23, 1971, a copy enclosed, and I read one statement from that Act of Congress:

"That no person shall be enrolled as a descendant of the Snohomish tribe if he has shared or is eligible to share a per capita distribution of a judgment against the United States recovered by any other tribe."

Therefore, we propose by the power of the rule of precedent that dual enrollment must be disallowed.

Special Indian Agent Charles E. Roblin reported:

> The prospect of a payment has brought forth a horde of claimants, many of whom have been allotted or are enrolled at some of the Washington agencies, but who can probably establish the possession of some Cowlitz blood. I have tried to eliminate all these from the schedule submitted, as well as I could.

It is easy to recognize that Special Indian Agent Charles E. Roblin recognized the necessity, the justice, and the right to disallow dual enrollment.

A very important part of this legislation is the allocation of $10,000 for the purchase of land of which we are desperately in need for tribal entity, and to preserve for our posterity that Indian culture which is peculiarly our own.

Let us be consistent with the very heart of this legislation. This legislation has to do with the distribution of a very small token settlement for very valuable land which the Cowlitz Tribe never ceded to the U.S. Government.

In the Indian War of 1855–56, the Cowlitz Tribe never fought against the U.S. Army, but rather fought for it and with it under the command of Capt. Sydney S. Ford, Jr. Governor Stevens summarily gave the Cowlitz a reservation, but following the end of that war the President and the Congress reclaimed the land which Governor Stevens had given to the Cowlitz Tribe. The purpose of this was found in the fact that the President and the Congress wanted to group a number of these small tribes on one reservation together. The Cowlitz knew this would be suicide to live on a reservation with neighboring tribes whom they had fought against for the U.S. Army and they therefore refused. It amazes me that the President and the Congress could not see the fallacy of their action.

The end result was that the tribes who fought against the United States were awarded land and the Cowlitz who fought for this great country were awarded nothing.

The shame of this inequality of justice has lain as a sore finger, and criminal, upon the government of this great land for nearly 120 years. You, the present-day leaders of our great land, have the opportunity to reveal an element of integrity in justice by allowing us to spend, out of this distribution, a mere pittance of $10,000 for a few small acres of land of which we originally had aboriginal title to nearly 4 million acres.

John Collier, the Commissioner of Indian Affairs under Franklin D. Roosevelt, said in his 1938 report, reprinted in the Annual Report of the Secretary of the Interior:

> Since 1933, the Indian Service has made a concerted effort—an effort which is as yet but a mere beginning—to help the Indian to build back his land holdings to a point where they will provide an adequate basis for a self-sustaining economy, a self-satisfying social organization.

By the close of the fiscal year 1938, the area of the lands held in trust for the Indians by the government had been increased to approximately 51,540,307 acres—approximately 67 percent tribally owned, and 33 percent in allotments held in trust for the benefit of individuals.

We, the Cowlitz, are only asking for enough out of our distribution to purchase 510 acres for the posterity of our economic and social well-being, for the opportunity to retain and perpetuate our own individual culture.

Special Indian Agent Charles E. Roblin reported:

The Cowlitz Tribe seems to have a better foundation for a claim than the other tribes of Western Washington.

The Cowlitz Tribe was a powerful tribe, and in the early days constituted the "blue blood" of Western Washington. They were independent, fearless and aggressive. Their descendants have the same qualities which placed their ancestors in the position of leaders.

Today the Cowlitz people are an asset to the community about them, but they feel that they can be an added asset to their community if given the opportunity of having their own tribal center from which to operate.

The Cowlitz can bring added economic and social well-being to their entire community about them, and land for a tribal center is an absolute necessity for us to make this next great step forward as benefactors to our community.

Finally, I would like to speak to a few statements made by Mr. John Kyl, Assistant Secretary of the Interior, at the subcommittee hearings on H.R. 5090, April 17, 1975. Mr. John Kyl made the statement that: 1. "The scarcity of acceptable records on the Cowlitz Indians will make it difficult for many applicants to prove lineal descendancy from the original group."

Cowlitz Tribal response:

a. We have developed our rolls very thoroughly and carefully. We have utilized the Roblin Roll, which has been recognized by the Bureau of Indian Affairs, as a basis for our determinations.

b. In the case of the Alaskan natives proving their blood quantum, the procedure for proving blood quantum was reversed. Instead of facing the necessity of proving their blood quantum, they were enrolled unless the Government could prove they were not meeting the blood quantum requirement.

Why should we be discriminatory at this point? Why not accept the Cowlitz tribal rolls except for where the Government can prove fallacy?

2. "The Department favors the enactment of this bill, if ***." (Mr. Kyl then proceeded to change every single point of the bill bringing, in actuality, his own department's plan back into existence.)

Cowlitz Tribal response:

We wonder why he ever used the word "favor" when ultimately he revealed his complete disfavor. We feel this type of hypocrisy is despicable and far below the standards to be used by men of such high state.

3. "Because the Cowlitz is an unorganized, nonrecognized descendant group, there is no tribal entity through which the judgment funds can be programmed."

Cowlitz Tribal response:

First, I will speak to his claim that we are unorganized. The Cowlitz Tribe has always believed that it was the political successor in interest to the aboriginal tribe. The Cowlitz Tribe has hired a tribal manager and other tribal employees to manage the affairs of the tribe. The Cowlitz Tribe has recently updated its constitution and bylaws to govern the affairs of the tribe. The Cowlitz Tribe has exercised tribal self-government in many forms and ways for many years. The Cowlitz Tribe has semi-annual general membership meetings, and the Cowlitz Tribal Council meets numerous times during the year.

Second, let us consider the statement that we are "nonrecognized." His statement is rather general, and broad, and needs clarification. He should have stated, "nonrecognized at the present time by the Department of the Interior." Consider with us the following facts:

a. The Cowlitz Tribe is a member of the Small Tribes Organization of Western Washington (STOWW). STOWW is an intertribal organization incorporated under the laws of the State of Washington. In order to be eligible for membership in STOWW, an applicant tribe must be an Indian Tribe or Band. The Cowlitz Tribe is recognized by STOWW.

b. The Cowlitz Tribe has had membership in the National Congress of American Indians (NCAI) and had joined as an Indian tribe. This type of membership means that the NCAI recognized the Cowlitz to be a bona fide Indian tribe.

c. The Cowlitz Tribe is also recognized by the Affiliated Tribes of Northwest Indians and is a member of the same.

d. The Cowlitz Tribe has membership on the Governor's Indian Advisory Council of Washington State. This membership demonstrates that the Governor of the State of Washington recognizes the tribal existence of the Cowlitz Tribe.

e. And in conclusion, we have been federally recognized in the past, though not recognized by the present-day Administration. Our argument is based on the fact that Governor Isaac Ingalls Stevens was appointed by the President and that he gave the Cowlitz land for a reservation, which constitutes Federal recognition.

Therefore, for the sake of our present-day administration, we hereby go on record as presenting our formal petition for Federal recognition.

We believe that our present Cowlitz tribal administration should be recognized as the political successor to the aboriginal entity, and that the land can be held in trust in the name of that body known as the Cowlitz Tribal Council.

May this great Government which is of the people, by the people, and for the people, rest its sublime authority in the unanimous decision of the people for whom this award is made.

Respectfully submitted, Roy I. Wilson, chairman, Cowlitz Tribe of Indians.

Mr. GERARD. Thank you very much, Mr. Wilson and Mr. Cloquet. Your material is fairly voluminous and the Committee will consider the advisability of including it all in the record.

If the Congress were to approve the provision authorizing the purchase of land, have you identified the site to be purchased?

Mr. WILSON. We have several sites that we are considering, and it would be determined between the Cowlitz Tribe and the Bureau which would be the best for a central location and the best socio-economic benefit to the tribe.

Mr. GERARD. Recognizing that you and the Department apparently have some disagreement about your current status, if the legislation were approved to permit the tribe to take that land in trust, such action would constitute a form of Federal recognition and I don't believe the committee—at least it has never been agreed to—wants to utilize the judgment bills as a vehicle for that purpose. The American Policy Review Commission is looking at that policy at the present time. But if the committee authorized the tribe to purchase the land and take it in fee title, what would your response to that be?

Mr. WILSON. The bill does not call for it to be held in trust. Of course, this is our tribe's personal desire, but we would gladly accept the right to purchase the land without it being held in trust, knowing that the main purpose of it being held in trust is another step toward federal recognition. We are going for federal recognition anyway. We are willing to accept it even though it is not held in trust. We want the land to set up a tribal center for the benefit of our people.

Mr. GERARD. In your response to the Department's position that if the one-sixteenth degree blood quantum criteria were approved, it would eliminate about 60 percent of the people who would otherwise be authorized to join in the award. I think you countered with the argument that a large number of these individuals would be picked up because they are currently denied enrollment at Yakima because they do not possess one-fourth degree of blood or more.

Mr. WILSON. That is true. Many of the Yakima would participate in this because they cannot participate in Yakima allotments unless they are one-fourth. Most all of the families involved would receive funds through their children.

I might say this also. As long as the Yakima-Cowlitz received money from the Yakimas and want dual enrollment as dual allottees, we would be glad to share with them on the distribution if they shared with us who have not shared in their allotments.

Mr. GERARD. That is a question the Yakimas would have to agree to.

Mr. WILSON. They would never agree to that.

Mr. GERARD. I think your position on dual enrollment is clear and you have cited the previous act which disallows that kind of an arrangement.

We had hoped that we might be able to divide this remaining time between your group and the Yakima witnesses. Do either of you have any summary statements you care to make?

Mr. CLOQUET. I would like to mention for the record the enrollment situation as referred to by the Department of Interior. It is not all that difficult to establish a roll. We feel we have a fine roll established, actually, second to none in the nation. We have been working on it for 3 years. They tend to make a big, big issue toward the establishment of a roll. It is not all that tough. Maybe we have a little more expertise than they have been in a position to develop over the last 150 years or so, but even the Bureau office in Everett, Wash. has acknowledged the fact that our roll is acceptable to a great degree by them.

I also want to state that our Cowlitz plan for the distribution of funds did have the blessing of the Portland area office. However,

the Everett office, for one reason or another, did not go along with the adoption of the Cowlitz plan. It would seem to me that the people in the local area, in the Portland office who are much more cognizant of the immediate things and facets that would go in or carry into the Cowlitz story from the beginning to the end—these people have been there for a good many years. They understand the small tribes' problems of all Washington, Oregon and Idaho, and they are the ones I believe who would have the expertise on actual Indian affairs in the Portland area.

Mr. GERARD. Thank you very much.

I have one question for the Bureau. Since the previous witnesses demonstrated that the roll they have developed to date has been used by the Bureau for apparently official purposes, I wonder if you could provide to the committee any instances in which the Cowlitz roll——

Ms. PARKS. I am not aware of any, but I will look into it.

Mr. GERARD. We would appreciate it if you would look into it and let us know.

The committee would next like to welcome Mr. Louis Cloud, Vice Chairman of the Yakima Tribal Council, accompanied by Mr. Bill Yallup of the Tribal Council.

STATEMENT OF BILL YALLUP, TRIBAL COUNCILMAN, YAKIMA TRIBE

Mr. YALLUP. My name is Bill Yallup. I am a member of the Yakima Tribe. I serve on the Yakima Tribal Council and my job is Chairman of the Legislative Committee. You may hear the word "Ti-Nap-Pum" in my testimony. This has reference to our people who come from the Cowlitz area. Due to the shortness of time, we would like to say for the record that we do not have a prepared statement, but we will have a few comments to give you our basis and conclusions regarding S. 1334.

As chairman for the Legislative Committee, I am in favor of 1334 with amendments. I will speak, however, only on section 3(C).

Mr. Cloud will cover section 2.

Mr. GERARD. Excuse me, Mr. Yallup. Did I understand you say you would speak with reference to Section 2?

Mr. YALLUP. Section 2, 3(C).

My statement has reference to a case known as Docket 161 in how we have to speak on behalf of Ti-Nap-Pums. I think the committee must take notice how the Court of Claims made the Cowlitz a share, better than 50 percent. This is one of the reasons that we base our understanding and the way we feel that this amendment should be handled.

I would like to enlighten you a little bit on Docket 161. I would like to make this a matter of record. This dates way back a few years now when the Yakima tribe made a claim up in the northern part, the original lands of the Yakima along the Columbia River. The Cowlitz also made claim in that area that was denied because of no treaty rights or even water rights in that area.

The Yakima were successful in getting their claim. The record will claim that the Colvilles, so to speak, came in the back door because these people migrated into the Colville Reservation and had similar rights under this claim.

In other words, what I am saying is the Colville Tribe had been denied the right to the tribe that intervened in the Yakima claim and today are sharing better than 50 percent of the total claim. This is what I am basing my testimony today on. They must look at the record of 161 because ultimately I believe if this bill was to pass as it is written today, it will end up in the court of Claims, and the chances are the Yakima tribe in a similar position as the Colville Tribe would intervene then in Docket 218. The Ti-Nap-Pum people enrolled on the Yakima Reservation in many cases, in many instances, are better than one-sixteenth.

I talked with them last Saturday and last Sunday at my home. They felt that they were purely discriminated against because of their grandparents, on both sides, grandmother and grandfather. Even though during our enrollment procedures we recognized the Cowlitz blood of these people, we feel that we should not be discriminated against in any form; that they have no recourse back in the 1800's other than to go to the Yakima Reservation or wherever they could go.

Just because the grandfather or grandmother married into the Yakima Tribe is no basis for denial as it does under Section C. Some of the minutes from the meetings that had taken—there is quite a bit of dispute as to how these people were to distribute the money. I understand that some of these minutes are made a matter of record so I will not cover that part. The only thing I have to say is that we would like to—just for the record and I am fullblooded Yakima. I have no Cowlitz in me at all. I am speaking only as the Tribal Councilman, and it is my duty to come before this hearing to ask the committee to strike out Section C all together because I feel that it is discriminatory to the Ti-Nap-Pums.

I carry that word from my Tribal Council. Just the other day I reported to the gentleman on my left, Mr. Louis Cloud, what had taken place, and I talked to my Chairman in this regard and our tribal attorney is waiting today. However the report goes, the Yakima Tribe will intervene if Section C is allowed.

I think I will reserve some of my comments until after Mr. Cloud is through because he has much to say on this also.

STATEMENT OF LOUIS CLOUD, VICE CHAIRMAN, YAKIMA TRIBE

Mr. CLOUD. My name is Louis Cloud. I am vice chairman of the Yakima Nation. I am here on behalf of the Lower Cowlitz and Upper Cowlitz people as an elected official. Just like Mr. Yallup, I am a fullblooded Indian and I do not claim any portion of that as Cowlitz blood. I am here as a representative on the part of the Cowlitz people that have been denied under 1334, section 2, (3). I believe the legislation is discriminatory for one-fourth percent of the Cowlitz people. I think one thing should be clarified. Even though the Cowlitz might be the proper people, maybe that is why 60 percent of those people have been absorbed in the Yakima Nation.

I speak on behalf of my elders, who are probably not even present today, that institute these claims before the Claims Commission, that are not living today that come from the Yakima Tribe and were a Cowlitz descendant. These people are fullbloods—not from what you see like now, the claims 218 which is reality today. You see

Cowlitz people mushrooming out just like a mushroom or toadstool, you see them popping out of the ground and you take a look at those people, and you cannot tell me that those people have any Indian degree of blood in them at all. But still they claim that they are Cowlitz.

I think it is going to be pretty hard for the Bureau of Indian Affairs to come up with one-sixteenth degree of Cowlitz blood, because anybody can get up and say "I am Cowlitz blood," but in fact the Yakima Nation enrollment could prove there are 480 Yakima enrollees that have Cowlitz degree of blood right on their card, so there would be no problem with the Bureau of Indian Affairs going through the one-fourth blood of the Yakimas to prove their Cowlitz degree of blood. But there are probably another 400 that are not on the enrollment card as Cowlitz, that probably come from Upper Cowlitz degree of blood.

So, members of the committee, I am here to testify on the two one-sixteenth degree. I don't know what the criteria of the Congress or the Commission would be, but on the one-sixteenth degree of blood of any tribe, that is cutting it pretty thin. I believe there should be a blood quantum established or criteria by the Congress which could recognize what degree of blood their cutoff point should be. Like the Yakimas, we have one-fourth degree recognized, not only Yakima degree but also Cowlitz and other tribes, but they are enrolled Yakimas.

Some of the people who testified prior to my time that tried to qualify for Yakima enrollment, but because of where they are domiciled they could not qualify, have now switched over to testify as Cowlitz and try to exclude 60 percent Cowlitz blood. I believe if he did enroll as a Yakima, he would probably be testifying here in the same status as we are testifying here today because we would want part of that money.

As I say, I am not testifying here for myself. I am testifying here as an elected official on behalf of the Cowlitz people.

Mr. GERARD. Mr. Yallup, did I understand you correctly that you propose to submit a formal statement?

Mr. YALLUP. Yes, after we get back. We have to hustle right back to Yakima. We are having our hearing on 161 at 1:30 tomorrow, and Mr. Hovis is tied up with that work, and will have our written statement probably the middle of next week. It would spell out our position as the Yakima Nation and would pertain to enrollment on the Yakima Reservation.

Mr. GERARD. Your paper will be directed essentially to the section of the bill that you discussed?

Mr. YALLUP. Yes.

Mr. GERARD. I wanted to pose a question to Mr. Cloud. If I understand him correctly, he suggested that Congress establish a blood quantum criteria for enrollment?

Mr. CLOUD. Yes.

Mr. GERARD. I believe that right is vested in the various tribes. Would you really want Congress to assume that rather than having the tribes continuing to determine their own enrollment criteria?

Mr. CLOUD. Mr. Gerard, it is probably true, but we have an act which is from the 1946 Roll and the Congress saw fit to amend

that legislation. So, therefore, I cannot see Congress saying they are going to accept one-sixteenth at this time under 1334 and the other rolls that they accept one-fourth, and how long will it be before Congress accepts another piece of legislation similar to 1334 for one one-hundred-twenty-eighth or one sixty-fourth? That is hardly enough degree of blood to be recognized.

I think there should be a cutoff point like one-fourth to be recognized as an Indian. You take a lot of people who are less than one-fourth. Before the Enrollment Act they did not want to be recognized as an Indian, but when the benefits came to the tribe, they wanted to be enrolled as an Indian. And I think this is happening all over the country.

Mr. GERARD. Senator Abourezk's general practice is to hold the hearing record open for a period of 2 weeks so that all witnesses and the Department will have an additional opportunity to submit any material, documents and so on that they feel are pertinent to the legislation. Unless there is a change in his instructions, we will conclude the hearing with that understanding that all witnesses will have an additional 2 weeks to submit followup material.

Thank you very much.

[Whereupon, at 11:50 a.m. the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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THE COWLITZ TRIBE,
Tacoma, Wash., October 10, 1975.

Senator HENRY M. JACKSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JACKSON: Please enter this letter as favoring S 1334 into the record.

Upon resolution of the Cowlitz Tribe, you, Senator Magnuson, and Lloyd Meeds, introduced legislation providing for Distribution of Funds Appropriated in favor of the Cowlitz Tribe.

Since that time, the Full Committee on Interior and Insular Affairs deleted Section 3, (1) of the House Bill, "Ten thousand dollars be set aside by the Secretary for the purchase of lands for the benefit of the Cowlitz Indian Tribe". The members of the tribe concur in the distribution of funds as it was written in the bills and *not* as it was amended in the House Committee.

The Cowlitz are a sovereign people and have a right to say what they want to do with their judgment funds. The Congress and Department of Interior has heard loud and clear from the Cowlitz Tribe as to how they want their funds distributed, and that they want to spend $10,000 *OF THEIR OWN MONEY* for purchase of land!

If H.R. 5090 and S. 1334 are not passed as written in the bills, if Section 3 (1) is deleted, it is no longer the plan of the Cowlitz people, but the plan of the Department of Interior and the Congress of the United States. Does might still make it right?

MARY CLOQUET,
Business Manager, Cowlitz Indian Tribe.

STATEMENT OF DONALD J. CLOQUET, CHIEF AND CHAIRMAN, SOVEREIGN COWLITZ TRIBE

Mr. Chairman, my name is Donald J. Cloquet, elected Chief and Chairman of the Council of Chiefs of the Sovereign Cowlitz Tribe. Because of a lack of funds, I am unable to appear before your committee in person. Because most of the Indians who this bill deals with are in the State of Washington, I can not help but wonder why a hearing as important as this one is held in Washington, D.C. I request that you also consider holding Field Hearings in the State of Washington.

The Sovereign Cowlitz Tribe represents the aboriginal Tribe and derives its powers from the unextinguished aboriginal sovereignty of the Tribe. I herewith request that at this point in the printed record that a copy of the Constitution of the Sovereign Cowlitz Tribe, Exhibit A, be printed as a part of my Statement.

[*Exhibit A*]

CONSTITUTION OF THE COWLITZ TRIBE

The Aboriginal Sovereign Cowlitz Tribe, in order to form a more perfect Tribe, establish Justice, perpetuate The Cowlitz Tribal image as an autonomous Tribe, insure domestic tranquility, protect and perpetuate Tribal automony on this continent, provide a model Tribe for Tribes of both the Northern and the Southern Continent to follow, provide for the common defense, promote the general Welfare and secure the Blessings of Liberty to members of the Tribe, and their Posterity do Ordain and establish this Constitution for the Sovereign Cowlitz Tribe.

ARTICLE I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the Cowlitz Tribe, which shall consist of a Senate and House of Representatives which is herewith empowered with all the legislative authority necessary to completely define and perfect the complete autonomy of the Cowlitz Tribe.

Section 2. The House of Representatives shall be composed of members chosen every year by the Tribesmen of each tribal representative unit. Each Tribesman, as

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of the date his enrollment is approved, who is sixteen years of age or older, shall be assigned to a fifty-five man tribal representative unit. After August 2, 1980, the authority to change the size of a tribal representative unit shall be vested in the Congress, subject to ratification by at least two-thirds of all tribal representative units.

When vacancies happen in the representation from any tribal representative unit, the Executive Authority of that Tribe shall issue Writs of Election to fill such vacancies.

The House of Representatives shall choose their Speaker and other Officers; and shall have sole Power of Impeachment.

No Tribesman shall be a Representative who shall not have attained the age of Twenty three years, who shall not when elected, be an enrolled Tribal inhabitant of the ancestral Cowlitz Country.

Section 3. The Senate of the Cowlitz Tribe shall be composed of six Senators elected at large from the ancestral Cowlitz country to serve for three years, provided however that, as nearly as possible, one-third of the seats of the Senators shall be vacated at the expiration of the first year, at the expiration of the second year, and at the expiration of the third year, so that one-third may be chosen every year. As of August 2, 1980, the authority to change the number of Senators shall be vested in the Congress subject to ratification by referendum by majority vote, where the total number voting exceed at least 60 percent of the number voting in the last election.

If vacancies happen by resignation, or otherwise, the Executive of the Tribe may make temporary appointments until the next regular election where upon the unexpired term will be filled by the candidate elected.

No Tribesman shall be a Senator who shall not have attained to the age of thirty years and who shall not, when elected, be an enrolled Tribal inhabitant of the ancestral Cowlitz Country.

The Vice President of the Cowlitz Tribe shall be President of the Senate, but shall have no vote, unless they be equally divided.

Judgment in Cases of Impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, Trust or Profit under the Cowlitz Tribe, but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law.

Section 4. The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed by the Congress, provided of course, that the first election date, time and place shall be established by proclamation of the Council of Chiefs of the Cowlitz Tribe.

The Congress shall assemble at least once in every year, and such meeting shall be on the Second Monday of September, unless they shall by law appoint a different day.

Section 5. Each House shall be the Judge of the Elections, Returns, and Qualification of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the Yeas and Nays of the members of either House on any question shall at the desire of one-fifth of those present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that which the two Houses shall be setting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by law, and paid out of the Treasury of the Cowlitz Tribe. They shall in all cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the Authority of the Cowlitz Tribe, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the Cowlitz Tribe, shall be a member of either House during his continuance in office.

(Approved and adopted April 18, 1973 by the General Council of the Cowlitz Tribe)

Section 7. All Bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the Cowlitz Tribe; if he approves he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by Yeas and Nays, and the names of the persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every Order, Resolution, or Vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the Cowlitz Tribes; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the case of a Bill.

Section 8. Among some of the enumerated powers of the Congress, the Congress shall have power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the Cowlitz Tribe;

To borrow money on the credit of the Cowlitz Tribe;

To regulate Commerce with Indian Tribes, and with foreign Nations;

To coin money, regulate the value thereof, and of foreign coin, and fix the Standard of Weights and Measures;

To provide for the punishment of counterfeiting the securities and current coin of the Cowlitz Tribe;

To establish Post Offices and post roads;

To promote the Progress of Science and useful Arts, be securing for limited times to authors and investors the exclusive right to their respective writings and discoveries;

To constitute Tribunals inferior to the supreme court;

To raise and support Tribal Security Forces to inforce internal Police Power of the Tribe;

To provide and maintain Tribal Security Forces (Militia) and so on,

To make rules for the Government and Regulation of the land forces;

To provide for calling forth the Militia to execute the laws of the Tribe, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such part of them as may be employed in the service of the Cowlitz Tribe, reserving to the Executive, the appointment of the officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise legislative authority in all cases whatsoever for the erection of Forts, Magazines, Arsenals, dock-yards, and other needful buildings;—And

To make all laws which shall be necessary and proper for carrying into Execution the foregoing powers, and all other powers vested by this Constitution in the Government of the Cowlitz Tribe, or in any Department or Officer thereof.

Section 9. The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the public safety may require it.

No Bill of Attainer or ex post facto law shall be passed.

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all Tribal money shall be published from time to time.

No revenue shall arrive in the Treasury of the Cowlitz Tribe unless it be from taxation or from authorized deficit spending authorized by the Congress, provided further that any other revenue belonging to the Tribe will be placed in the Tribal General Fund which shall be managed by a domestic corporation owned by the Tribal members in the same manner as other domestic corporations within the Tribe's economy.

Except under authority of the Congress, no Title of Nobility shall be granted by Tribe: And no person holding any office of profit or trust under the Tribe, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any King, Chief, sovereign Prince, or foreign State.

Section 10. The Congress shall be without authority to either compromise or relinquish the internal Sovereignty of the Cowlitz Tribe.

ARTICLE II

Section 1. The Executive power shall be vested in a President of the Cowlitz Tribe. He shall hold his office during the term of two years, and, together with the Vice-President, chosen for the same term, be elected, as follows: During the Tribal Nomination Convention, candidates shall be nominated for the Office of President and primary balloting shall be held until the two candidates can be selected for the run offs in the National Tribal Elections. Each of the two candidates for President shall pick their candidate for Vice-President, who will become Vice-President if their candidate for President is elected. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President; and if there be an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President. Provided however for the first presidential election the procedure for election will be established by proclamation of the Council of the Chiefs of the Cowlitz Tribe.

(Approved and adopted April 18, 1973 by the General Council of the Cowlitz Tribe.)

No person except an enrolled Tribal member of the Cowlitz Tribe, shall be eligible to the office of President, neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and be a resident within the ancestral Cowlitz country.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what office shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the Cowlitz Tribe.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation—"I do solemnly swear (or affirm) that I will to the best of my Ability, preserve, protect and defend the Constitution of the Cowlitz Tribe."

Section 2. The President shall be Commander in Chief of the Tribal Security Forces, and other special Military Forces of the Cowlitz Tribe, and of any Militia when called into the actual Service of the Cowlitz Tribe; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the Cowlitz Tribe, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the Cowlitz Tribe, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of the Departments, provided, however, that treaties entered into shall not compromise Tribal sovereignty.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the State of the Tribe, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the Cowlitz Tribe.

Section 4. The President, Vice President and all civil officers of the Cowlitz Tribe, shall be removed from office on impeachment for and conviction of Treason, Bribery, or other high crimes and misdemeanors.

Section 5. The Executive Branch of the Cowlitz Tribal Government shall be without authority to either compromise or relinquish the internal sovereignty of the Cowlitz Tribe.

ARTICLE III

Section 1. The judicial power of the Cowlitz Tribe, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and inferior Courts, must be enrolled Tribal members, shall hold their offices during good behaviour, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Section 2. The Judicial power shall extend to all cases, in law and equity arising under this Constitution, the laws of the Cowlitz Tribe, and Treaties made, or which shall be made, under their Authority; —to all cases affecting Ambassadors, other public Ministers and Consuls; —to all cases of admiralty and maritime jurisdiction; —to controversies between the Tribe, or the citizens thereof, and foreign States, Citizens or Subjects.

In all cases affecting Ambassadors, other public Ministers and Consuls, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes except in cases of impeachment shall be by jury.

Section 3. Treason against the Cowlitz Tribe shall consist only in levying War against them, or in adhering to their Enemies, giving them aid and comfort. No person shall be convicted of Treason unless on the Testimony of two witnesses to the same overt Act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of Treason shall work corruption of Blood, or forfeiture except during the life of the person attainted.

Section 4. The Judicial Branch of the Government of the Cowlitz Tribe shall be without authority to either compromise or relinquish the internal sovereignty of the Cowlitz Tribe.

ARTICLE IV

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, which shall be valid to all Intents and Purposes, as part of this Constitution when approved and ratified by referendum by majority vote, where the total number of voting exceed at least 60 per cent of the number voting in the last election.

(Approved and adopted April 18, 1973 by the General Council of the Cowlitz Tribe.)

ARTICLE V

Section 1. The economy of the Cowlitz Tribe shall be based upon the free enterprise concept with the enrolled Tribal members given a right to share in the development of the resources of the Cowlitz Tribe.

Section 2. It shall be the responsibility of the Congress to enact the proper laws which will foster the economic conditions that will cause the Cowlitz economy to flourish.

Section 3. All activities that can be identified by the Cowlitz Tribe that can be carried on for the purpose of making a profit must be spun off from the tribal government and vested in a domestic corporation owned by the enrolled Tribal membership. Priority will be given to an individual receiving his income in the form of dividends from the domestic corporations of the Cowlitz Tribe.

Section 4. Spouses may from their native descendent spouse be entitled to inherit life estates without voting privileges in domestic Cowlitz corporations provided however that the entitlement to the life estate shall be total only if there be no descendants to the native spouse, otherwise, the spouse's entitlement will be one half with the other half being divided among the descendants.

Section 5. Except for direct native descendants of the original Cowlitz Tribe, no individual, non-native in origin, shall be able to acquire more than a life estate in any property defined by the laws of the Cowlitz Tribe. If an individual is to acquire a life estate in any tribally defined property, the procedure for acquiring the life estate must be defined by Cowlitz Tribal Law which shall be exclusive.

ARTICLE VI

Section 1. Prior to the establishment of the fully functional Tribal Government defined by this Constitution—elected members of Congress (Senate and House), elected President, Vice President, and so on and the duly appointed Judges—the Congressional legislative authority defined in this Constitution shall be vested in a legislative body

to be known as the "Council of Chiefs" which shall consist of a five-man body elected at large from the enrolled Tribal members convened in a General Council.

The "Council of Chiefs" will serve for one year from the date it was elected or until a new Council election is held by the "General Council".

Section 2. The "Council of Chiefs" shall have the full authority of the Congress of the Cowlitz Tribe, except that its Acts shall also be subject to the superior amendatory, and legislative authority of the "General Council".

Section 3. Acts enacted by the "Council of Chiefs" must be worded as follows: "*Be it enacted by the Congress of the Cowlitz Tribe (By the Council of Chiefs of the Cowlitz Tribe) that. . . .*"

Section 4. Acts enacted by the "General Council must be worded as follows: "*Be it enacted by the Congress of the Cowlitz Tribe (By the General Council of the Cowlitz Tribe) that . . .*"

Section 5. The "Council of Chiefs" subject to the superior authority of the "General Council" shall also have the authority to make one year "acting appointments" to all Executive and Judicial positions—each officer so appointed shall have the authority of that office and shall have, as a part of his official title, the word "Acting".

Section 6. A legal Quorum, for the "Council of Chiefs" to exercise its authority must consist of all its members being present, however, a chief may appoint a subchief to serve when he must be absent. A legal Quorum for the "General Council" shall be defined to be at least one-fifth (1/5) of the voting enrolled tribal members, unless some other number has been defined by rules adopted by the "General Council".

Section 7. At the discretion of the "General Council", the time for the calling elections for the shifting of the Cowlitz Tribe into its fully functional Tribal Government defined by this Constitution shall be determined by the "General Council". The shift to a fully functional Tribal Government will be accomplished by the General Council authorizing the "Council of Chiefs" to issue a proclamation proclaiming the extinguishment of the "Council of Chiefs", the extinguishment of the "General Council", and the establishment of a procedure for conducting the elections called for under this Constitution.

ARTICLE VII

Section 1. The enrollment of Tribal members shall be handled by the "Enrollment Council" of the Cowlitz Tribe. The size, method of appointment and term of office of the members of the "Enrollment Council" shall be subject to definition established by law, provided however, that prior to August 2, 1990, a three-man council will be appointed initially by the Council of Chiefs with a regular term of office being three years, but with one term expiring each year so that one-third expire each year. Vacancies occuring will be filled by Presidential nominations confirmed by the Senate.

Section 2. The "Enrollment Council" of the Cowlitz Tribe shall, in accordance with Tribal Law, be empowered with the authority to approve enrollment for applicants who can prove their aboriginal ancestry, provided however, that priority will be given to those who are one-quarter (¼) degree or more, or unless the applicant can prove he is descendant of original Cowlitz Tribe.

(Approved and adopted April 18, 1973 by the General Council of the Cowlitz Tribe)

Section 3. The "Enrollment Council" shall be without authority to enlarge or diminish the size of the Tribe without first being authorized by law passed by Congress or proclamation of the "Council of Chiefs". The size of the Tribe, as nearly as possible, will be a function of the economy wherein enrolled Tribal members will enjoy a high standard of living and new enrolled Tribal members will help make it possible to expand the economy to a higher stable level where the standard of living will be the same or higher and the productivity of the Tribe will result in a higher per capita output.

Section 4. Although the Congress may define privileges for spouses of enrolled Tribal members, it is the intent of this Constitution to vest interest only in enrolled Tribal members of the Tribe.

Section 5. New enrollee's prior to being enrolled will be evaluated to determine not only their present worth (talent) but also their potential worth (talent) if given the proper training and education. Initially the Enrollment Council must give priority to the natives who possess the greatest expertise and technological background necessary to develop the Tribe's Economy, however, it will be a long range policy to also provide training to natives with potential talent who with training could become positive contributors to the advancement of the Cowlitz Tribe's economy.

Section 6. The "Enrollment Council" shall, at the time of enrollment, assign the enrollee to a "representative unit" and to equalize size of representative units, or

accepting and approval of requested transfers and trades. The first priority will be to accomplish assignments to the representative units by volunteers but the authority to make mandatory assignments shall rest with the enrollment council, however, transfers which would result in loss of political office will be avoided where possible.

Section 7. Before an enrollee can be confirmed as an enrolled Tribal member, he must take an Oath or Affirmation:—"I do solemnly swear (or affirm) that I will to the best of my ability, preserve, protect and defend the Constitution of the Cowlitz Tribe and obey the laws of the Tribe."

(Approved and adopted April 18, 1973 by the General Council of the Cowlitz Tribe.)

I do not feel that this committee should be considering H.R. 5090 until every thing has been done under the 1973 Indian Judgment Funds Use or Distribution Act (87 Stat. 466). The Sovereign Cowlitz Tribe has submitted a plan under this Act (87 Stat. 466) which should be given full consideration. I have been in communication with President Gerald R. Ford concerning our position on Judgment Funds.

At this point in the hearing record, I herewith request that the Sovereign Cowlitz Tribe's January 6, 1975 letter, be inserted and printed in the printed hearing record and that it be followed by President Ford's March 27, 1975 letter of response.

AMENDMENT I

Amendment I establishes a new ARTICLE VIII which reads as follows:

ARTICLE VIII

Section 1. For the purpose of establishing and creating a viable Tribal Economy, this ARTICLE defines the role of an enlisted tribal member and/or on site Indian.

Section 2. Authority is herewith granted by the enrolled members of the Tribe to establish a class of membership in the Tribe to be knows as "enlisted Tribal Members" and/or "on site Indians" who if he is not already an enrolled Tribal Member shall have all the rights as an enrolled Tribal Member except he shall not have a vested perpetual interest in the Tribe, except for granted rights which shall at all times be contingent upon being an enlisted Tribal Member in good standing in the Tribe.

Section 3. The Congress is given the authority and responsibility to enact the proper laws to define a method of how an enlisted tribal member may earn through many years of re-enlistments, a right to a pension based upon both age and the number of years served as an enlisted Tribal Member.

Section 4. Enrolled Tribal Members will be given priority to becoming enlisted/or "on site Indians", however expertise and technological background of each potential "on site Indian" will have a high priority because of the need to have the Tribe succeed in development of its economy. Enrolled Tribal Members who also become enlisted on site Indians shall continue to have all their rights as enrolled Indians.

Section 5. An "on site Indian" shall be enlisted into the Tribe for a four year tour of duty. Enlistment proceedings shall be a function of the Enrollment Council of the Tribe, provided however, the Congress will establish the enlistment quota, provided further, enlisted non-enrolled Tribal Members shall not have a vote on this issue.

Section 6. Although "on site Indians" who are not enrolled Tribal Members shall not have the right to vote on Constitutional Amendments or sit on the Council of Chiefs, they shall not be barred from holding any position in any branch of the Tribe including the Office of President of the Tribe. Positions held by enlisted Tribal members who are not enrolled Tribal Members shall be considered vacant if their enlisted status should terminate.

Section 7. Enlisted Tribal Members as a group shall be entitled to share in 49% of all profits generated within the economy established by the activities of the "on site Indians" and the remaining 51% profits shall be split among the enrolled Tribal Members. Although the enrolled Tribal Members own a controlling interest, it will be the on site Indians who shall have the right to elect the Board of Directors of the domestic corporations owned in this manner.

Section 8. When it is necessary to raise investment Capital to mount a Business enterprise, capital will be raised by selling a 49% interest in the enterprise to Indian investors. Priority shall be given first to Enrolled Tribal Members, then Enlisted Non-Enrolled Tribal Members, and then to other recognized Indians from outside the Tribe. The remaining 51% will be owned 49% by the enlisted Tribal Members as a group and 51% by the enrolled Tribal Members as a group. Although a controlling interest will be held by non-investor interest, the investor interest shall have the right to elect the Board of Directors to manage the enterprise owned in this manner.

Approved September 7, 1975 by the General Council of the Sovereign Cowlitz Tribe voting by referendum

January 6, 1975.

President GERALD R. FORD,
The White House,
Washington, D.C.

DEAR PRESIDENT FORD: The purpose of this letter is to register the Sovereign Cowlitz Tribe's complete dissatisfaction with the recent decision of the Secretary of the Interior, Rogers C. B. Morton to devise a Federal Government Plan for the Use & Distribution of the Cowlitz Judgment Funds Awarded in Docket 218 before the Indian Claims Commission.

The official position of the Sovereign Cowlitz Tribe has not changed from what it expressed in its letter of March 3, 1974 to President Richard M. Nixon and the position taken in the Sovereign Cowlitz Tribe's April 27, 1974 plan for the "Use or Distribution of Indian Judgment Funds for funds arising from Docket No. 218."

Because the Federal Government in its dealing with the Cowlitz Indians chose to recognize for the purposes of claims—a small stooge group—and then after the claims award, chose to ignore even this stooge group's plan for distribution; the Sovereign Cowlitz Tribe takes the official position to conclude that the distribution of funds under the Federal Government Plan to individuals of Cowlitz ancestry in no way consummates a land transaction or compromises the Sovereignty of the Sovereign Cowlitz Tribe.

We strongly urge that a plan such as what we have already submitted be implemented. Granted, we know according to your laws, legal tender is 1974 paper dollars which have a purchasing power of about fifteen cents of a dollar at the time the U.S. says it took our land without paying for it. Our official position is that we still own our land and that we maintain the superior land ownership records in our title plant which still record the land as belonging to the Sovereign Cowlitz Tribe.

It would cost the U.S. very little and would be a great gesture if you could direct the U.S. Mint to issue a set of commemorative coins picturing great Indian chiefs in American History which could be identified as legal tender to satisfy a debt to Indians in the 1800's. Because of the nature of the limited issue of the coins, the Indians involved would be able to recoup some of the losses by selling these coins to collectors. This is not an offer to settle but just a suggestion of how the U.S. might approach the question of settling old debts to Indian Tribes in a more honorable manner.

Respectfully yours,

DONALD J. CLOQUET,
Chairman, Council of Chiefs, Sovereign Cowlitz Tribe.

THE WHITE HOUSE,
Washington, March 27, 1975.

MR. DONALD J. CLOQUET,
Chairman, Council of Chiefs, Sovereign Cowlitz Tribe,
Tacoma, Wash.

DEAR MR. CLOQUET: The President has asked me to thank you for your recent letter concerning the Cowlitz Indians.

Because of the controversy surrounding the distribution plan submitted by the Secretary of the Interior, under the provisions of the 1973 Indian Judgment Funds Use or Distribution Act, 87 Stat. 466, the Secretary has withdrawn the plan from Congressional consideration for his further review.

Under the provisions of that Act, the Secretary is bound to consider all suggestions from interested parties regarding the use or distribution of these funds. Please be assured that your recommendation will receive full consideration in the Secretary's review. Upon completion of such review, the Administration will again submit a plan to Congress for its consideration.

Sincerely,

NORMAN E. ROSS, Jr.,
Assistant Director, Domestic Council.

According to President Ford, in The White House letter of March 27, 1975, "the Administration will again submit a plan to Congress for its consideration."

Should the Administration's new plan to Congress not include a plan that gives autonomy to the Sovereign Cowlitz Tribe, the Sovereign Cowlitz Tribe herewith request

your Committee to amend S. 1334 to give the Sovereign Cowlitz Tribe separate autonomy so that we can continue to pursue our inherent right to self determination. We are not dictating that those persons who want to terminate and extinguish their aboriginal rights for less than 11 cents an acre do so provided it is made perfectly clear that their act does not compromise the Sovereign Cowlitz Tribe.

The Sovereign Cowlitz Tribe is open to all Indians of Cowlitz ancestry and interested Indians may make application for enrollment into the Sovereign Cowlitz Tribe by writing to the Sovereign Cowlitz Tribe at 10712 Westwood Dr. S.W.; Tacoma, Washington 98499.

The Sovereign Cowlitz Tribe has never ceded any of its ancestral land to any other Sovereignty. No treaty or legal instrument exist that show the Cowlitz ceding their land. The Sovereign Cowlitz Tribe continue to exercise the superior right to be custodian of the land records which are superior to any other non-aboriginal title plants which may contain records pertaining to the same portion of this Planet Earth. We stand on our rights. I herewith request that at this point in the hearing record that the Tribe's proclamation be printed.

SOVEREIGN COWLITZ TRIBE

Be it enacted by the Cowlitz Tribe assembled in general council this date, April 6, 1973, in the full exercise of the Tribe's Aboriginal Sovereignty—That in order to protect its most important land base which is being threatened by the tribe not heretofore weilding its sovereignty in a manner that would be understood by our White brother who aspires to take our land without our consent—*It is herewith decreed:*

Section 2. Be it known by all civilized Nations of the World that the following title of property (land) to wit:

That portion of Cowlitz County of the State of Washington identified by the United States as Gifford Pinchot National Forest, Vol. No. 79, P. 1055.

That portion of Skamania County of the State of Washington identified by the United States as Gifford Pinchot National Forest, Vol. No. 65, P. 88.

That portion of Lewis County of the State of Washington identified by the United States as Gifford Pinchot National Forest, and Snoqualmie National Forest, Vol. No. 71 P. 511.

That portion of Klickitat County of the State of Washington identified by the United States as Gifford Pinchot National Forest, Vol. No. 161 P. 460.

That portion of Yakima County of the State of Washington identified by the United States as Gifford Pinchot National Forest, Vol. No. 875 P. 6.

—and the total stream or lake which may form a boundary: is vested in the Sovereign Cowlitz Tribe who shall as Sovereign continue to exercise the superior right to be custodian of the land records which shall be superior to any other non-aboriginal title plants which may contain records pertaining to the same portion of this Planet Earth, Provided further, this decree in no way implies that the Sovereign Cowlitz Tribe shall not have the authority to issue additional decrees establishing its Sovereign Authority over ancestral land not covered by this decree.

Section. 3. Be it known by all civilized Nations of the World that the Sovereign Cowlitz Tribe has never ceded any of its ancestral land to any other Sovereignty.

Section 4. The title Plant for the maintenance of the superior land records of the Tribe's ancestral land shall contain the superior land records and shall be maintained in a "Book of Deeds" and the authority to post Title changes shall be vested in the Council of Chiefs who shall have the authority to promulgate the necessary rules and regulations to carry out the intent of this Act.

Section 5. The Council of Chiefs shall be an elected Tribal Entity empowered with the full authority to wield all the legislative authority of the Tribe necessary to completely define and perfect the complete sovereign autonomy of the Cowlitz Tribe, Provided however, that the authority herein granted shall continue to be subject to the discretionary intervening superior amendatory and legislative authority of the General Council of the Cowlitz Tribe. At the inception, the Council of Chiefs will be a five-man; elected body whose term of Office will be established subject to the approval of the General Council—the size of the Council of Chiefs shall be subject to changes made by the General Council.

Section 6. The Cowlitz Tribe herewith grant and cede to Chief Wow-eea, an Indian from a friendly Tribe, the authority to select a ten mile by ten mile portion of land or an equivalent—but contiguous—area of land and he shall proclaim exclusive sovereignty over the land selected with the full right to establish a native title plant for the maintenance of superior land title records of the selected area, provided further, all persons acquiring rights within the ceded area shall have egress and ingress rights to reach the ceded area.

Section 7. The Chairman of the General Council is authorized and directed to proclaim this Act by reading it in public places, having it posted on the land in question, filing it in the "Book of Deeds" of the Counties that cover the land in question, filing it in the Bureau of Indian Affairs Title Plant and in the Bureau of Land Management Title Plant.

CERTIFICATION

I, Donald J. Cloquet, Elected Chairman of the General Council of the Cowlitz Tribe attest to the fact that the above enacted "Act—Decree" was introduced, discussed, and enacted by a majority vote of the General Council of the Cowlitz Tribe assembled in General Council this April 6, 1973.

DONALD J. CLOQUET,
Elected Chairman, General Council, Cowlitz Tribe.

The Sovereign Cowlitz Tribe has filed its Proclamation in five non-aboriginal title plants redirecting persons interested in ownership records to the site of the superior native land records, which is the Sovereign Cowlitz Tribe's Native Title Plant.

The Sovereign Cowlitz Tribe has written to the President of the United States, President Richard M. Nixon when he was President and President Gerald R. Ford, notifying them of our superior Native Title Plant and have requested the U.S. to expunge from U.S. public records all entries evidencing U.S. title to the Ancestral Lands of the Sovereign Cowlitz Tribe.

Inasmuch as we still own our land, we request that you respect us in our inherent right to self determination right to continue to own our land under your protection.

The United States not be trying to seize and exploit our land, but as a member of the world community of civilized Nations, the U.S. should be offering the Sovereign Cowlitz be both economic and technical assistance to help the Tribe through self determination to perfect its Sovereignty and join the World Community of Nations.

The Sovereign Cowlitz Tribe strongly protest the illegal acts of a duly established non-profit corporation, incorporated under the Laws of the State of Washington and subject to both State and Federal Laws.

On page 18 and 19 of the printed records of the April 17, 1975 Washington, D.C. hearing on H.R. 5090, I wish to bring to your attention the following excerpt from the Statement of Joseph E. Cloquet:

> The Cowlitz Tribe is not, as the Secretary of the Interior suggests, a disorganized group of Indians, but has continued as a tribal entity from the early 1850's on up to the present, and is a modern bona fide tribe of Indians incorporated under the laws of the State of Washington, . . .

Please take note of reference to being incorporated under the Laws of the State of Washington. As a direct result of reading this hearing statement, the State of Washington's Secretary of State's Office was contacted and a copy of Mr. Roy Wilson's and Mr. Joseph E. Cloquet's organization's Articles of Incorporation were obtained.

The Sovereign Cowlitz Tribe strongly protest the fact that your subcommittee on Indian Affairs is dealing with a non-profit corporation which is illegal under both State and Federal laws—non-profit corporations are prohibited from both lobbying and dividing up money belonging to it among the members of the non-profit corporation.

I bring to your attention "Article V" and "Article VI" of their Articles of Incorporation which read as follows:

ARTICLE V

> The Corporation is one which does not contemplate the pecuniary gain or profit to the members thereof and is organized for non-profit purposes and no part of any net earnings thereof shall inure to the benefits of any member or other individual.

ARTICLE VI

> In the event of the dissolution of this Corporation any assets remaining after the payment of the creditors shall be distributed for one or more of the exempt purposes of the Corporation or paid over to an organization or organizations described in Section 501 C-3 and exempt from taxation under Section 501 A of the Internal Revenue Code of 1954 or as amended as selected by the Tribal Council or failing such selection selected by a court of competent jurisdiction. In no event shall the assets be distributed to any director, officer, or member of the Corporation, or any private individual.

The non-profit corporation's distribution plan, "H.R. 5090" and "S.1334" which was introduced at their request, is in violation of both of the above Articles "V & VI" and in violation of both State and Federal Government's non-profit Laws.

The Cowlitz Tribe was reconstituted as the Sovereign Cowlitz Tribe more than a year before the incorporation of the non-profit corporation. It became clear at the time the Claims Attorneys proposed a stipulated Compromise that those in control of the group that later became the non-profit corporation were hell bent on doing irrational acts not in the best interest of the aboriginal Tribe.

Since the reconstitution of the Cowlitz Tribe as the Sovereign Cowlitz Tribe (April 6, 1973), our fears concerning the irrational traits of the other group have been confirmed by their irrational acts—they did their final act of stupidity on February 19, 1974 by incorporating as a non-profit corporation.

By enlarge the group now represented by the non-profit corporation are not true Cowlitz Indians. A majority of those associated with the non-profit corporation are in such a hurry to get the few tokens offered for the land settlement that they can be easily duped—the incorporation as a non-profit corporation and the Stipulated Compromise are two examples.

By incorporating as a non-profit corporation, if they do have any interest in the judgment, they have now irrevocably committed forever, their interest in the judgment to charitable purposes.

The so-called stipulated compromise settlement is not a valid agreement since it was not made with the true aboriginal Tribe but with a mob of people who were easily duped by slick speaking government Claims Attorneys who only get paid if the government appropriates a so-called settlement award.

The Sovereign Cowlitz Tribe takes the position that if award money belongs to the Tribe that this irrevocable commitment to charitable purposes does not extend to the total Tribe. But, in fact, applies only to the persons who listed their name on the Articles of incorporation filed with the State of Washington and the officers and perhaps to those other individuals who specifically have authorized the signers of the Articles of Incorporation to act for them.

The Sovereign Cowlitz Tribe also takes the position that what ever vestige of tribal representation that may have rested with the group that incorporated itself as a non-profit corporation has been relinquished by default and lack of responsible tribal leadership.

The aboriginal Tribe does not want to interfere with the right of Mr. Roy Wilson and other persons to form a non-profit corporation for charitable purposes, but at the same time, the Aboriginal Tribe under the leadership of the Sovereign Cowlitz Tribal Officials will not relinquish the responsibility of the Aboriginal Tribe's Sovereignty, nor will it allow Tribal assets to be ripped off and irrevocably committed to charitable purposes.

Therefore when it comes to Mr. Roy Wilson, Mr. Joseph E. Cloquet, or any one else whose name appear on the enclosed Articles of Incorporation, it is improper for your Office to deal with them on matters which concern the introduction of legislation and/or distribution of money belonging to a non-profit corporation to the members of the non-profit corporation.

The Sovereign Cowlitz Tribe request that your office take no further action for or on behalf of the aboriginal Tribe until you contact the true aboriginal Tribe (The Sovereign Cowlitz Tribe) to see what we might consider appropriate.

This concludes my Statement.